

# MAINE STATE LEGISLATURE

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## PART 2

## CIVIL DEFENSE

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## CHAPTER 61

## CIVIL DEFENSE GENERALLY

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## § 301. Short title

This chapter may be cited as the "Maine Civil Defense and Public Safety Act of 1949."

R.S.1954, c. 12, § 1.

**§ 302. Policy and purposes**

The purpose of this chapter is to create a State Civil Defense and Public Safety Agency, and to authorize the creation of local organizations for civil defense and public safety in the political subdivisions of the State; to confer upon the Governor and upon the executive heads of governing bodies of the political subdivisions of the State the emergency powers provided; and to provide for the rendering of mutual aid among the political subdivisions of the State and with other states with respect to the carrying out of civil defense and public safety functions.

It is further declared to be the purpose of this chapter and the policy of the State that all civil defense and public safety functions be coordinated to the maximum extent with the comparable functions of the Federal Government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster or catastrophe that may occur.

R.S.1954, c. 12, § 2.

**§ 303. Definitions**

As used in this chapter:

**1. Civil defense and public safety.** "Civil defense and public safety" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage or other hostile action, or by fire, flood, earthquake or other natural causes. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services (civilian war aid), emergency transportation, existing or properly assigned functions of plant protection and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

**2. Local organization for civil defense and public safety.** "Local organization for civil defense and public safety" shall mean an organization created in accordance with this chapter

by state, county or local authority to perform local civil defense and public safety functions.

**3. Mobile reserve battalion.** "Mobile reserve battalion" shall mean organization for civil defense and public safety created in accordance with this chapter by state, county or local authority to be dispatched by the Governor to supplement local organizations for civil defense and public safety in a stricken area.

**4. Political subdivision.** "Political subdivision" includes counties, cities, towns, villages, townships, districts, authorities and other public corporations and entities whether organized and existing under charter or general law.

R.S.1954, c. 12, § 3; 1961, c. 171, § 2.

### § 304. Civil Defense and Public Safety Agency

Whenever it is deemed advisable by the Governor, there shall be created within the executive branch of the State Government a Department of Civil Defense and Public Safety, as heretofore established and hereinafter in this chapter called the "Civil Defense and Public Safety Agency", and a Director of Civil Defense and Public Safety, hereinafter in this chapter called the "director", who shall be the head thereof. The director shall be appointed by the Governor with the advice and consent of the Council and he shall hold office during the pleasure of the Governor and Council. He shall receive such compensation as shall be fixed by the Governor and Council and shall hold no other state office.

The director may employ such technical, clerical, stenographic, administrative and operative assistants and other personnel, subject to the Personnel Law, and make such expenditures on approval of the Governor and Council, as may be necessary to carry out the purposes of this chapter.

The director and other personnel of the Civil Defense and Public Safety Agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing in the same manner as provided for personnel of other state agencies.

The director, subject to the direction and control of the Governor, shall be the executive head of the Civil Defense and Public Safety Agency and shall be responsible to the Governor for carrying out the program for civil defense and public safety. He shall coordinate the activities of all organizations for civil defense and public safety within the State, and shall maintain liaison with

and cooperate with civil defense and public safety agencies and organizations of other states, the Federal Government and foreign countries, and the political subdivisions thereof, and shall have such additional authority, duties and responsibilities as may be prescribed by the Governor.

R.S.1954, c. 12, § 4; 1959, c. 48.

### § 305. Rules and regulations

The director shall make, amend or rescind, after public hearing thereon, notice of which has been duly advertised in the state paper, reasonable rules and regulations to carry out this chapter.

Such rules and regulations shall become effective when approved in writing by the Governor and Council and when a certified copy thereof has been filed with the Secretary of State. Any person aggrieved by any such rule or regulation, or any act or order of the director in enforcing any such rule or regulation, may appeal by filing in the Superior Court a complaint within 30 days, and the court shall fix a time and place of hearing and cause notice thereof to be given to the director and, after the hearing, the court may affirm or reverse the rule, regulation, act or order of the director and the decision of the court shall be final.

1955, c. 435, § 1-A; 1961, c. 317, § 1.

### § 306. Public Safety Council

A Public Safety Council, as heretofore established, shall be composed of 5 members. All members shall be appointed by the Governor with the advice and consent of the Executive Council. They shall serve during the pleasure of the Governor and Executive Council. The Governor shall be a member ex officio. The members thereof shall serve without compensation, but, other than state officers, may be reimbursed for their reasonable and necessary expenses incurred in the performance of their duty. The Public Safety Council shall meet at least 4 times in each calendar year, and as many other times as they shall deem necessary.

The council shall advise the Governor and the director on all matters pertaining to civil defense and public safety. The council shall not interfere with any of the operational duties of the director which have been assigned to him by section 304. Nothing herein contained shall be construed to mean that the



council cannot advise on such affairs, or that the creation of this council relieves the director of his responsibility for carrying out the civil defense and public safety program, pursuant to section 304.

R.S.1954, c. 12, § 5.

### § 307. **Emergency proclamation; Governor's powers**

Whenever any disaster or catastrophe exists or appears imminent arising from attack, sabotage or other hostile action, or by fire, flood, earthquake or other natural causes, the Governor shall by proclamation declare the fact and that an emergency exists in any or all sections of the State. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of Governor were vacant shall, by proclamation, declare the fact and that an emergency exists in any or all sections of the State. A copy of such proclamation shall be filed with the Secretary of State. The Governor shall have general direction and control of the Civil Defense and Public Safety Agency, and shall be responsible for the carrying out of this chapter, and in the event of disaster or catastrophe beyond local control, may assume direct operational control over all or any part of the civil defense and public safety functions within the State.

In performing his duties under this chapter, the Governor is authorized and directed to cooperate with all departments and agencies of the Federal Government, with the offices and agencies of other states and foreign countries, and the political subdivisions thereof, and with private agencies in all matters pertaining to the civil defense and public safety of the State and of the nation.

In performing his duties under this chapter, the Governor is further authorized and empowered:

**1. Orders, rules and regulations.** To make, amend and rescind the necessary orders, rules and regulations to carry out this chapter within the limits of the authority conferred upon him and not inconsistent with the rules, regulations and directives of the President of the United States or of any federal department or agency having specifically authorized civil defense and public safety functions;

**2. Plans and program.** To prepare a comprehensive plan and program for the civil defense and public safety of this State, such plan and program to be integrated into and coordinated with

the civil defense and public safety plans of federal agencies and with the plans of other states and foreign countries, and the political subdivisions thereof, to the fullest possible extent, and to coordinate the preparation of plans and programs for civil defense and public safety by the political subdivisions of this State, such plans to be integrated into and coordinated with the civil defense and public safety plan and program of this State to the fullest possible extent;

**3. Training and public information programs.** In accordance with such plan and program for the civil defense and public safety of this State, and consistent with the civil defense and public safety plans, programs and directives of the Federal Government, to procure supplies and equipment, to institute training programs and public information programs, and to take all other preparatory steps including the partial or full mobilization of civil defense and public safety organizations in advance of actual disaster or catastrophe, to insure the furnishing of adequately trained and equipped forces of civil defense and public safety personnel in time of need;

**4. Studies and surveys.** To conduct such studies and surveys and to take such inventories of the industries, resources and facilities of this State as may be necessary to ascertain the capabilities of the State for civil defense and public safety, and to plan for the most efficient emergency use thereof;

**5. Mutual aid arrangements.** On behalf of this State, to enter into mutual aid arrangements with other states and foreign countries, and the political subdivisions thereof, and to coordinate mutual aid plans between political subdivisions of this State;

**6. Delegation of authority.** To delegate any authority vested in him under this chapter, and to provide for the sub-delegation of any such authority;

Whenever the Governor is satisfied that an emergency no longer exists, he shall terminate the proclamation by another proclamation affecting the sections of the State covered by the original proclamation, or any part thereof. Said proclamation shall be published in such newspapers of the State and posted in such places as the Governor, or the person acting in that capacity, deems appropriate.

R.S.1954, c. 12, § 6; 1963, c. 386, §§ 1, 2.

**§ 308. Eminent domain and compensation**

When the Governor has issued a proclamation as provided for in section 307 and when thereafter in his judgment for the better protection and welfare of this State or its inhabitants the situation so requires as a matter of public necessity or convenience, he may take possession of any property real or personal located within this State for public uses in furtherance of this chapter.

If real estate is seized under this section, a declaration of the property seized, containing a full and complete description, shall be filed with the register of deeds in and for the county in which the seizure is located and a copy of said declaration furnished the owner.

If personal property is seized under this section, there shall be entered upon a docket containing a permanent record a description of such personal property and its condition when seized and there shall be furnished to the owner of such seized property a true copy of the docket recording.

The Governor shall, with the approval of the Executive Council, award reasonable compensation to the owners of the property which he may take under this section and for its use and for any injury thereto or destruction thereof caused by such use.

Any owner of property of which possession has been taken under this section to whom no award has been made or who is dissatisfied with the amount awarded him as compensation may bring an action in the Superior Court in the county in which he lives or has a usual place of business or in the County of Kennebec to have the amount to which he is entitled by way of damages determined. The plaintiff may bring such action within 6 years after the date when possession of the property was taken under this section, except that if the owner of the property is in the military service of the United States at any time during which he should otherwise have brought his action, he may bring the same within 6 years after his discharge from the said military service. The plaintiff and the State shall severally have the right to have such damages assessed by a jury.

In the event, by reason of the death of the owner of property seized under this section, he is unable to bring or to continue the action provided for, the action may be brought or continued by his executor or administrator, as the case may be.

R.S.1954, c. 12, § 7; 1961, c. 317, § 2.

**§ 309. Mobile reserve battalions**

The Governor is authorized to create and establish such number of mobile reserve battalions as may be necessary to reinforce civil defense and public safety organizations in stricken areas and in accordance with the plans of the Federal Government. He shall appoint a commander for each such battalion who shall have primary responsibility for the organization, administration and operation of such battalion. Mobile reserve battalions shall be called to duty upon orders of the Governor and shall perform their functions in any part of the State, or, upon the conditions specified in this section, in other states and foreign countries, and the political subdivisions thereof.

Personnel of mobile reserve battalions while on duty shall:

**1. State employees.** If they are employees of the State, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment;

**2. Political subdivision employees.** If they are employees of a political subdivision of the State, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment; and

**3. Other employees.** If they are not employees of the State or a political subdivision thereof, be entitled to compensation by the State at \$6 per day and to the same rights and immunities as are provided by law for the employees of this State. All personnel of mobile reserve battalions shall, while on duty, be subject to the operational control of the authority in charge of civil defense and public safety activities in the area in which they are serving.

Police sections of such mobile reserve battalions shall have the power to make arrests of persons found in violation of any state law or any provisions of this chapter or any rules or regulations promulgated thereunder in times of emergency necessary to carry out section 307. The same power of arrest is vested in such police sections of mobile reserve battalions of other states, foreign countries or their political subdivisions while on active duty within the borders of this State.

The State shall reimburse a political subdivision for the compensation paid and actual traveling and maintenance expenses of employees of such political subdivision while serving as members of a mobile reserve battalion, and for all payments

for death, disability or injury of such employees incurred in the course of such duty, and for all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such mobile reserve battalion.

Whenever a mobile reserve battalion of another state or foreign country, or political subdivision thereof, shall render aid in this State pursuant to the orders of the Governor of its home state or responsible authority of the foreign country and upon the request of the Governor of this State, this State shall reimburse such other state or foreign country for the compensation paid and actual traveling and maintenance expenses of the personnel of such mobile reserve battalion while rendering such aid, and for all payments for death, disability or injury of such personnel incurred in the course of rendering such aid, and for all losses of or damage to supplies and equipment of such other state or foreign country, or a political subdivision thereof, resulting from the rendering of such aid; provided that the laws of such other state or foreign country contain provisions substantially similar to this section, or whenever the mutual aid arrangement between this State and such other state, foreign country or political subdivision thereof requires such payment.

No personnel of mobile reserve battalions of this State shall be ordered by the Governor to operate in any other state or foreign country, or political subdivision thereof, unless the laws of such other state or foreign country, or political subdivision thereof, contain provisions substantially similar to those of this section.

R.S.1954, c. 12, § 8; 1955, c. 435, § 1.

### **§ 310. Local organization for defense and safety**

Each political subdivision of this State is authorized to establish and shall establish a local organization for civil defense and public safety in accordance with the state civil defense and public safety plan and program. Each local organization for civil defense and public safety shall have a director who shall be appointed by the executive officer or governing body of the political subdivision, and who shall have direct responsibility for the organization, administration and operation of such local organization for civil defense and public safety, subject to the direction and control of such executive officer or governing body.

Political subdivisions may accept the services of the State Personnel Board and adopt the regulations thereof for the purpose of qualifying for federal administrative funds. The State

Personnel Board may enter into agreements with political subdivisions of the State for the purpose of furnishing merit system coverage for civil defense employees, or employees of other agencies and departments assigned full time to civil defense duties. The State Personnel Board may charge for such services rendered, the fee to be consistent with the cost of coverage per state employee multiplied by the number of local employees covered. Fees thus received shall be credited to the General Fund. Any director so appointed may be removed by the appointing body for incompetence, misconduct, neglect of duty, disloyalty or subversive activity. The director may also remove any of his appointees for incompetence, misconduct, neglect of duty, disloyalty or subversive activity. Each local organization for civil defense and public safety shall perform civil defense and public safety functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to section 311. Counties shall have concurrent responsibility for civil defense and public safety in the unorganized territories within the respective counties.

Duly appointed law enforcement officers of local, state and sheriffs organizations are empowered to enforce any of the provisions of this chapter or any rules or regulations promulgated thereunder in times of an emergency or during authorized alerts including partial or full mobilization necessary to carry out section 307. It shall be unlawful for any individual to fail or refuse to comply with any just or reasonable order relative to the above from any such duly appointed law enforcement officer. Such failure to comply with such order shall constitute a misdemeanor.

Duly appointed civil defense and public safety law enforcement officers of local, state and sheriffs organizations shall have power to make arrests of persons found in violation of any provisions of this chapter or any rules and regulations promulgated thereunder in times of emergency necessary to carry out section 307.

R.S.1954, c. 12, § 9; 1955, c. 435, § 2; 1963, c. 386, §§ 3, 4.

### § 311. Mutual aid arrangements

The director of each local organization for civil defense and public safety shall, in collaboration with other public and private agencies within this State, develop or cause to be developed mutual aid arrangements for reciprocal civil defense and public safety aid and assistance in case of disaster too great to be dealt with

unassisted. Such arrangements shall be consistent with the state civil defense and public safety plan and program, and in time of emergency it shall be the duty of each local organization for civil defense and public safety to render assistance in accordance with such mutual aid arrangements, and for this purpose political subdivisions are authorized to enter into such mutual aid arrangements.

Each political subdivision, when geographical locations make mutual aid arrangements desirable, may, subject to the approval of the state director, enter into mutual aid arrangements with civil defense and public safety agencies or organizations in other states, foreign countries or political subdivisions thereof, for reciprocal civil defense and public safety aid and assistance in case of disaster or catastrophe too great to be dealt with unassisted.

R.S.1954, c. 12, § 10.

### **§ 312. Immunity**

Neither the State nor any political subdivision thereof, nor other agencies, nor, except in cases of willful misconduct, the agents, employees or representatives of any of them, engaged in any civil defense activities, while complying with or attempting to comply with this chapter or any other rule or regulation promulgated pursuant to this chapter, shall be liable for the death of or any injury to persons, or damage to property, as a result of such activity. This section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this chapter, or under the Workmen's Compensation Law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress.

R.S.1954, c. 12, § 11.

### **§ 313. Appropriations and acceptance of aid; authority of state director**

Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for civil defense and public safety. In making such appropriations, such political subdivision shall specify the amounts and purposes for

which the moneys so provided may be used by the local organizations for civil defense and public safety.

Whenever the Federal Government or any agency or officer thereof or any person, firm or corporation shall offer to the State or to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes of civil defense and public safety, the State, acting through the Governor, or such political subdivision, acting through its executive officer or governing body, may accept such offer and upon such acceptance the Governor of the State or executive officer or governing body of such political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the State or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

The state director, for purposes of civil defense and public safety, and subject to the approval of the Governor, may convey equipment, supplies, materials or funds by way of sale, lease or grant to any political subdivision of the State, such conveyance to be subject to the terms of the offer and the rules and regulations, if any, imposed by the State.

R.S.1954, c. 12, § 12; 1955, c. 435, § 3.

### § 314. Utilization of existing services and facilities

In carrying out this chapter, the Governor and the executive officers or governing bodies of the political subdivisions of the State are directed and shall utilize the services and facilities of existing departments, offices and agencies of the State and all the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed and shall cooperate with and extend such services and facilities to the Governor and to the civil defense and public safety organizations of this State upon request.

R.S.1954, c. 12, § 13; 1955, c. 435, § 4.

### § 315. Political activity prohibited

No organization for civil defense and public safety established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

R.S.1954, c. 12, § 14.



**§ 316. Civil defense and public safety personnel**

No person shall be employed or associated in any capacity in any civil defense and public safety organization established under this chapter who advocates or has advocated a change in the constitutional form of the Government of the United States or in this State or the overthrow of any Government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for civil defense and public safety shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this State, which oath shall be substantially as follows:

“I . . . . ., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Maine, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter.

“And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of the . . . . ., I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States by force or violence.”

R.S.1954, c. 12, § 15.

**§ 317. Inconsistent laws suspended**

Except as otherwise provided all existing laws, rules and regulations inconsistent with this chapter or of any order, rule or regulation issued under the authority of this chapter shall be suspended during the period of time and to the extent that such inconsistency exists.

R.S.1954, c. 12, § 16.

**§ 318. Aid in emergency; penalty**

In the event of disaster or catastrophe as provided in section 307 the Governor shall have the power and authority to utilize

any available property and enlist the aid of any person to assist in the effort to control, put out or end the disaster or catastrophe, or aid in the caring for the safety of persons. Any person who thus refuses without reasonable cause shall upon conviction be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both. The State shall be liable for any damage to any property utilized under this chapter.

R.S.1954, c. 12, § 17.

### § 319. Right of way; penalty; jurisdiction

Men and equipment required to respond to emergency calls under this chapter shall have the right of way over all public ways and roads and the Governor is granted the right to close or restrict traffic on all roads in any area.

Whoever shall fail to give the right of way to men, vehicles and equipment required to respond to emergency calls under this chapter, or whoever shall enter upon roads which have been closed to traffic under this chapter, shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both. The District Court shall have jurisdiction of all such offenses.

R.S.1954, c. 12, § 18; 1963, c. 402, § 3.

### § 320. Enforcement

It shall be the duty of every organization for civil defense and public safety established pursuant to this chapter and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the Governor under authority of this chapter. Each such organization shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under his authority.

R.S.1954, c. 12, § 19.

### § 321. Penalty

Every officer of a political subdivision of this State who, having administrative responsibilities under this chapter, willfully violates any of the provisions of this chapter shall be punished by a fine of \$20.

1955, c. 435, § 5.

### § 322. Appropriations and authorization of expenditures

The Governor, with the advice and consent of the Council, is authorized and empowered, whenever an emergency has been

declared as provided in section 307, to transfer to the "Emergency Civil Defense and Public Safety Fund", as heretofore established, any state moneys in the General Fund of the State, including unexpended appropriation balances of any state department or agency allotted or otherwise. The Governor is authorized to expend the moneys in the said fund for the purpose of carrying out this chapter.

R.S.1954, c. 12, § 20.

### § 323. Compensation of injuries received in line of duty

All members of the civil defense and public safety forces shall be deemed to be employees of the State when engaged in training for or on civil defense and public safety duty, and shall have all the rights given to state employees under the Workmen's Compensation Act. All claims shall be filed and prosecuted and determined in accordance with the procedure set forth in the Workmen's Compensation Act.

In computing the average weekly wage of any claimant under this section, the average weekly wage shall be taken to be the earning capacity of the injured in the occupation in which he is regularly engaged.

Any sums payable under any Act of Congress or other federal program as compensation for death, disability or injury of civil defense workers shall be considered with the determination and settlement of any claim brought under this section. When payments received from the United States are less than an injured member would have been entitled to receive under this section, then he shall be entitled to receive all the benefits to which he would have been entitled under this section, less the benefits actually received from the United States.

R.S.1954, c. 12, § 21.