

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE LAW LIBRARY

NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 339

S. P. 125

In Senate, January 30, 1957.

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Charles of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Revising the State Civil Defense and Public Safety Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 12, § 3, amended. The next to the last paragraph of section 3 of chapter 12 of the Revised Statutes is hereby repealed, as follows:

~~“Mobile reserve battalion” shall mean organization for civil defense and public safety created in accordance with the provisions of 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.~~

Sec. 2. R. S., c. 12, § 4, amended. The 1st sentence of the 1st paragraph of section 4 of chapter 12 of the Revised Statutes is hereby amended to read as follows:

~~“Whenever it is deemed advisable by the governor, there shall be~~ **There is** 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.’

Sec. 3. R. S., c. 12, § 4, amended. The last sentence of the last paragraph of section 4 of chapter 12 of the Revised Statutes is hereby amended to read as follows:

‘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 authorized by this chapter as may be prescribed by the Governor.'

Sec. 4. R. S., c. 12, § 6, repealed and replaced. Section 6 of chapter 12 of the Revised Statutes is hereby repealed and the following enacted in place thereof:

'Sec. 6. Powers of the Governor. In performing his duties under the provisions of 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 the provisions of this chapter, the Governor is further authorized and empowered:

I. To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, 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.

II. 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.

In preparing a plan the Governor may assign to state employees and officials, and to the employees and officials of the political subdivisions of the State, such duties and responsibilities in the civil defense and public safety organization as he deems best.

III. 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.

IV. 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.

Individuals, firms and corporations shall produce such records and other information as required by the Governor in pursuance of civil defense planning.

The Director may apply to the Superior Court for Kennebec county or to any Justice of said Court, if the Court shall not be in session, for a subpoena to compel the attendance of witnesses or the production of books, papers, records or documents of individuals, firms, associations or corporations as may be necessary to effective preparation of the civil defense of the State. Such Court or Judge shall, before issuing such subpoena, provide adequate opportunity for the Director and the party against whom the subpoena is requested to be heard. No such subpoena shall issue unless the Court or Judge shall certify that the attendance of such witness or the production of such books, papers, records or documents is deemed reasonably necessary to the effective preparation of the civil defense of the State and that the Director has made reasonable efforts to secure such attendance or such books, papers, records or documents without recourse to compulsory process.

V. 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.

VI. To delegate any authority vested in him under the provisions of this chapter, and to provide for the sub-delegation of any such authority.

VII. To cooperate with the President and the heads of the armed forces, the civil defense agency of the United States, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the civil defense of the State and Nation, including the direction or control of

- A. Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces, and other tests and exercises;
- B. Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;
- C. The effective screening or extinguishing of all lights and lighting devices and appliances;
- D. Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;
- E. The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack;
- F. Public meetings or gatherings; and
- G. The evacuation and reception of the civilian population.'

Sec. 5. R. S., c. 12, § 7, repealed and replaced. Section 7 of chapter 12 of the Revised Statutes is hereby repealed and the following section enacted in place thereof:

‘Sec. 7. Emergency powers of the Governor. 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. Such proclamation shall be published in such newspapers of the State and posted in such places as the Governor deems necessary and 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 the provisions 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.

During such emergency the Governor shall have the power and authority to assign civil defense duties and responsibilities to any person within the State and not under orders of the Federal Government. Such persons shall be considered to be covered by the provisions of section 15.

When the Governor has issued a proclamation of emergency 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 the provisions of this chapter.

If real estate is seized under the provisions of 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 the provisions of 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 the provisions of 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 the provisions of this section to whom no award has been made or who is dissatisfied with the amount awarded him as compensation may file a petition 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 in which he is entitled by way of damages determined. The petitioner may make such claim in such a manner as may be provided, within 6 years after the date when possession of the property was taken under the provisions of 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 filed his petition, he may file the same within 6 years after his discharge from the said military service. The petitioner 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 the provisions of this section, he is unable to file his petition or to continue the action provided for herein, such petition may be filed or the action continued by his executor or administrator, as the case may be.

Whenever the Governor is satisfied that an emergency no longer exists, he shall annul the proclamation by another proclamation affecting the sections of the State covered by the original proclamation, or any part thereof, which said proclamation shall be published and posted in the same manner as provided for the issuance of the original proclamation.'

Sec. 6. R. S., c. 12, § 8, repealed. Section 8 of chapter 12 of the Revised Statutes, as amended by section 1 of chapter 435 of the public laws of 1955, is hereby repealed.

Sec. 7. R. S., c. 12, § 9, amended. Section 9 of chapter 12 of the Revised Statutes, as amended by section 2 of chapter 435 of the public laws of 1955, is hereby further amended to read as follows:

'Sec. 9. Local organization for civil defense and public 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~~ **the State Director.** ~~Any director so appointed may be removed by the appointing body for incompetence, misconduct, neglect of duty, disloyalty or subversive activity.~~ **The State Director may remove any local Director for cause.** The local 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 ~~such~~ civil defense and public safety functions within the territorial limits of the political subdivision within which it is organized as ~~may be prescribed by the State Director,~~ and, in addition, shall conduct such functions outside of such territorial limits as may be require pursuant to the provisions of section 10.

Each municipality of more than 20,000 population, and each county, shall have a full time civil defense director or a full time assistant director, who shall be paid a salary by the city or county which he serves. Such director or assistant director shall not hold another civil office of profit.

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 the provisions of section 6.~~ 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 **without warrant** 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 the provisions of section 6 of this chapter.~~

Sec. 8. R. S., c. 12, § 11, amended. Section 11 of chapter 12 of the Revised Statutes is hereby amended by adding at the end thereof 2 new paragraphs, as follows:

'Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized civil defense worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during civil defense emergency.'

As used in this section, the term "civil defense worker" shall include any full-time or part-time paid, volunteer or auxiliary employee of this State, or other states, territories, possessions of the District of Columbia, of the Federal Government, or any neighboring country, or of any political subdivision thereof, or of any agency or organization, performing civil defense services at any place in this State subject to the order or control of or pursuant to a request of the State Government or any political subdivision thereof.'

Sec. 9. R. S., c. 12, § 17, amended. Section 17 of chapter 12 of the Revised Statutes is hereby amended to read as follows:

'**Sec. 17. Aid in emergency.** In the event of disaster or catastrophe as provided in section 6 7, 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 **to aid** 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 ~~such fine and imprisonment.~~ The State shall be liable for any damage to any property utilized under the provisions of this chapter.'

'**Sec. 10. R. S., c. 12, § 18, amended.** Section 18 of chapter 12 of the Revised Statutes is hereby amended by repealing the last paragraph thereof.'

Sec. 11. R. S., c. 12, § 19, amended. Section 19 of chapter 12 of the Revised Statutes is hereby amended by adding thereto a new paragraph, as follows:

'Whoever violates or fails to comply with the provisions of any section of this chapter, or any rules or regulations established thereunder, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both.'

Sec. 12. R. S., c. 12, § 19-A, repealed. Section 19-A of chapter 12 of the Revised Statutes, as enacted by section 5 of chapter 435 of the public laws of 1955, is hereby repealed.

Sec. 13. R. S., c. 12, § 20, amended. The 2nd paragraph of section 20 of chapter 12 of the Revised Statutes is hereby amended to read as follows:

'The Governor, with the advice and consent of the Council, is authorized and empowered, whenever an emergency has been declared as provided in section 67, to transfer to this fund 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 the provisions of this chapter.'