

House Bill 3153

Sponsored by Representative OWENS (at the request of Neil Ruggles)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies laws relating to duration and termination of states of emergency and emergency powers under certain statutes.

A BILL FOR AN ACT

Relating to emergency powers; amending ORS 401.204, 431A.015 and 433.441.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 431A.015 is amended to read:

431A.015. (1) *[Unless the Governor has declared a public health emergency under ORS 433.441,]* The Public Health Director may, upon approval of the Governor or the designee of the Governor, take the public health actions described in subsection (2) of this section if the Public Health Director determines that:

(a)(A) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance has affected more than one county;

(B) There is an immediate need for a consistent response from the state in order to adequately protect the public health;

(C) The resources of the local public health authority or authorities are likely to be quickly overwhelmed or unable to effectively manage the required response; and

(D) There is a significant risk to the public health; or

(b) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance is reported in Oregon and is an issue of significant regional or national concern or is an issue for which there is significant involvement from federal authorities requiring state-federal coordination.

(2) The Public Health Director, after making the determinations required under subsection (1) of this section, may take the following public health actions:

(a) Coordinate the public health response across jurisdictions.

(b) Prescribe measures for the:

(A) Identification, assessment and control of the communicable disease or reportable disease, disease outbreak, epidemic or other condition of public health importance; and

(B) Allocation and distribution of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

(c) After consultation with appropriate medical experts, create and require the use of diagnostic and treatment guidelines and provide notice of those guidelines to health care providers, institutions and facilities.

(d) Require a person to obtain treatment and use appropriate prophylactic measures to prevent

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the introduction or spread of a communicable disease or reportable disease, unless:

2 (A) The person has a medical diagnosis for which a vaccination is contraindicated; or

3 (B) The person has a religious or conscientious objection to the required treatments or
4 prophylactic measures.

5 (e) Notwithstanding ORS 332.075, direct a district school board to close a children's facility or
6 school under the jurisdiction of the board. The authority granted to the Public Health Director un-
7 der this paragraph supersedes the authority granted to the district school board under ORS 332.075
8 to the extent the authority granted to the board is inconsistent with the authority granted to the
9 director.

10 (f) Issue guidelines for private businesses regarding appropriate work restrictions.

11 (g) Organize public information activities regarding the public health response to circumstances
12 described in subsection (1) of this section.

13 (h) Adopt reporting requirements for, and provide notice of those reporting requirements to,
14 health care providers, institutions and facilities for the purpose of obtaining information directly
15 related to the public health threat presented.

16 (i) Take control of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and
17 other pharmaceutical agents, medical supplies or personal protective equipment.

18 (3) The authority granted to the Public Health Director under this section is not intended to
19 override the general authority provided to a local public health authority except as already per-
20 mitted by law, or under the circumstances described in subsection (1) of this section.

21 (4) If the Oregon Health Authority adopts temporary rules to implement subsection (2) of this
22 section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The authority may
23 amend the temporary rules adopted under this subsection as often as is necessary to respond to the
24 public health threat.

25 (5) If it is necessary for the authority to purchase antitoxins, serums, vaccines, immunizing
26 agents, antibiotics, antidotes or other pharmaceutical agents, medical supplies or personal protective
27 equipment, the purchases are not subject to the provisions of ORS chapter 279A, 279B or 279C.

28 (6) If property is taken under the authority granted to the Public Health Director under sub-
29 section (2) of this section, the owner of the property is entitled to reasonable compensation from the
30 state.

31 **(7)(a) The powers and authority granted to the Public Health Director and the Oregon**
32 **Health Authority under this section expire 14 days after a determination is first made under**
33 **subsection (1) of this section, except as provided in paragraphs (b) and (c) of this subsection.**

34 **(b) The Public Health Director, with the approval of the Governor, may extend by up to**
35 **14 days the period during which the powers and authority granted by this section may be**
36 **exercised. Only one extension may be made under this paragraph.**

37 **(c) If the Governor declares an emergency under ORS 401.165 or 433.441 related to the**
38 **same condition of public health importance, the powers and authority granted by this section**
39 **expire upon the termination of the state of emergency.**

40 **(d) After the powers and authority granted by this section expire pursuant to this sub-**
41 **section, the Public Health Director may not make another determination under subsection**
42 **(1) of this section with respect to the same condition of public health importance.**

43 **SECTION 2.** ORS 401.204 is amended to read:

44 **401.204. (1) A state of emergency declared under ORS 401.165 or 433.441 terminates 14**
45 **days after the state of emergency is first declared, unless extended under subsection (2) or**

1 **(3) of this section.**

2 **(2) During the state of emergency, the Governor may extend the state of emergency by**
 3 **up to 14 additional days. The Governor may extend the state of emergency only once under**
 4 **this subsection.**

5 **(3) During the state of emergency, the Legislative Assembly may, by joint resolution,**
 6 **extend the state of emergency. There is no limit to the number of times the Legislative As-**
 7 **sembly may extend the state of emergency under this subsection, but the total duration of**
 8 **extensions under this subsection may not exceed 180 days.**

9 **(4) The state of emergency terminates 30 days after a general election is held, if in effect**
 10 **at that time. This subsection does not apply if the Legislative Assembly, by joint resolution,**
 11 **so provides.**

12 *[(1)]* **(5) The Governor shall terminate the state of emergency by proclamation when the emer-**
 13 **gency no longer exists, or when the threat of an emergency has passed. The Governor may ter-**
 14 **minate the state of emergency before the state of emergency terminates under subsections**
 15 **(1) to (4) of this section.**

16 *[(2) The state of emergency proclaimed by the Governor may be terminated at any time by joint*
 17 *resolution of the Legislative Assembly.]*

18 **SECTION 3.** ORS 433.441 is amended to read:

19 433.441. (1) Upon the occurrence of a public health emergency, the Governor may declare a state
 20 of public health emergency as authorized by ORS 433.441 to 433.452 to protect the public health.

21 (2) A proclamation of a state of public health emergency must specify:

- 22 (a) The nature of the public health emergency;
- 23 (b) The political subdivision or geographic area subject to the proclamation;
- 24 (c) The conditions that have brought about the public health emergency; and
- 25 (d) The duration of the state of public health emergency, if the duration is less than 14 days.

26 (3) During a public health emergency, the Governor may:

27 (a) Close[,] **or** order the evacuation of or the decontamination of any facility the Governor has
 28 reasonable cause to believe may endanger the public health.

29 (b) Regulate or restrict by any means necessary the use, sale or distribution of food, fuel, med-
 30 ical supplies, medicines or other goods and services.

31 (c) Prescribe modes of transportation, routes and destinations required for the evacuation of
 32 individuals or the provision of emergency services.

33 (d) Control or limit entry into, exit from, movement within and the occupancy of premises in any
 34 public area subject to or threatened by a public health emergency if such actions are reasonable
 35 and necessary to respond to the public health emergency.

36 (e) Authorize pharmacists licensed under ORS chapter 689 to administer vaccines to persons
 37 who are three years of age or older.

38 *[(f) Take any other action that may be necessary for the management of resources, or to protect the*
 39 *public during a public health emergency, including any actions authorized under ORS 401.168, 401.185,*
 40 *401.188 and 401.192.]*

41 (4) Nothing in ORS 433.441 to 433.452 limits the authority of the Governor to declare a state
 42 of emergency under ORS 401.165. *[If a state of emergency is declared as authorized under ORS*
 43 *401.165, the Governor may implement any action authorized by ORS 433.441 to 433.452.]*

44 *[(5) A proclamation of a state of public health emergency expires when terminated by a declaration*
 45 *of the Governor or no more than 14 days after the date the public health emergency is proclaimed un-*

1 *less the Governor expressly extends the proclamation for an additional 14-day period.]*

2 **(5) A public health emergency declared under this section is subject to the durational**
3 **limits and other provisions of ORS 401.204.**

4 (6) When real or personal property is taken under power granted by this section, the owner of
5 the property shall be entitled to reasonable compensation from the state.

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