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HOUSE BILL NO. 2251

Offered January 13, 2021

Prefiled January 13, 2021

A BILL to amend and reenact §§ 32.1-13, 32.1-20, 32.1-42, and 44-146.17, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to Emergency Services and Disaster Law; Commissioner of Health; emergency orders and regulations; limitations; civil penalty.

Patron—LaRock

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-13, 32.1-20, 32.1-42, and 44-146.17, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 32.1-13. Emergency orders and regulations; civil penalty.

A. The Board may make separate orders and regulations to meet any emergency, not provided for by general regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health.

B. Notwithstanding any other provision of law, the Board shall not make any order or regulation pursuant to this section unless, on the basis of the evidence available to the Board, (i) such order or regulation is necessary to suppress a nuisance dangerous to the public health or a communicable, contagious, or infectious disease or other danger to the public life and health; (ii) no alternatives to the proposed order or regulation that are reasonable in light of the impact on quality of life and economic well-being exist; and (iii) the provisions of such order or regulation are narrowly tailored to address the nuisance dangerous to the public health or a communicable, contagious, or infectious disease or other danger to the public life and health. Evidence considered by the Board in making such order or regulation shall be made part of the record of such decision. Any order or regulation adopted pursuant to this section shall comply with the requirements of § 57-2.02.

C. An order or regulation made by the Board pursuant to subsection B shall be valid for a period not to exceed 15 days. The Board may extend an order or regulation made pursuant to subsection B one time, for a period not to exceed 15 days, if (i) the Board provides notice of its intent to extend the order or regulation and holds at least one public hearing, which shall include opportunity for public comment, prior to such extension and (ii) on the basis of the evidence available to the Board, (a) such order or regulation is necessary to suppress a nuisance dangerous to the public health or a communicable, contagious, or infectious disease or other danger to the public life and health; (b) no alternatives to the proposed order or regulation that are reasonable in light of the impact on quality of life and economic well-being exist; and (c) the provisions of such order or regulation are narrowly tailored to address the nuisance dangerous to the public health or a communicable, contagious, or infectious disease or other danger to the public life and health. Evidence considered by the Board in extending such order or regulation shall be made part of the record of such decision.

D. Any order that (i) limits the number of individuals who may gather together in person, in public or private, or (ii) categorizes individuals on the basis of their relationship to or association with such individuals and limits the categories of individuals with whom an individual who is not known or reasonably suspected to have been exposed to or infected with a communicable disease of public health threat may associate shall be deemed to negatively impact the quality of life and economic well-being of residents of the Commonwealth.

E. Any person who violates an order or regulation made pursuant to this section is subject to a civil penalty of no more than $100 per violation. Such civil penalty shall be collected by the Commissioner and is payable to the Literary Fund. In no case shall any person be assessed a total of more than $1,000 in penalties for violations of the same order or regulation.

§ 32.1-20. Vested with authority of Board.

A. The Commissioner shall be vested with all the authority of the Board when it is not in session, subject to such rules and regulations as may be prescribed by the Board.

B. Any order or regulation made by the Commissioner pursuant to this section shall be subject to the requirements of § 32.1-13.

§ 32.1-42. Emergency rules and regulations.

The Board of Health may promulgate regulations and orders to meet any emergency or to prevent a potential emergency caused by a disease dangerous to public health, including, but not limited to, procedures specifically responding to any disease listed pursuant to § 32.1-35 that is determined to be

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caused by an agent or substance used as a weapon or any communicable disease of public health threat that is involved in an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter. *Any regulation or order adopted by the Board pursuant to this section shall be subject to the provisions of § 32.1-13.*

§ 44-146.17. (Effective until March 1, 2021) Powers and duties of Governor.

The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law ~~and the violation thereof shall be punishable as a Class 1 misdemeanor~~*, and any person who violates such an order is subject to a civil penalty of no more than $100 per violation* in every case where the executive order declares that its violation shall have such force and effect. *Where an executive order declares that a violation shall be punishable as a civil penalty, such violation shall be charged by summons and may be executed by a law-enforcement officer when such violation is observed by the officer. The summons used by a law-enforcement officer pursuant to this section shall be, in form, the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. The proceeds of such civil penalties collected pursuant to this section shall be paid and collected only in lawful money of the United States and paid into the state treasury to the credit of the Literary Fund. In no case shall any person be assessed a total of more than $1,000 in penalties for violations of the same executive order.*

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

~~Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and emergencies, no~~ *No* rule, regulation, or order issued under this section shall have any effect beyond ~~June 30 next following the next adjournment of the regular session of the General Assembly but the same or a similar rule, regulation, or order may thereafter be issued again if not contrary to law~~ *15 days after the date of issuance. If, however, the General Assembly does not take any action on the rule, regulation, or order within the 15 days during which the rule, regulation, or order is effective, the Governor may once again issue the same rule, regulation, or order but shall thereafter be prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency.*

Notwithstanding the foregoing or any other provision of law, the Governor shall not issue any rule, regulation, or order pursuant to this subdivision unless, on the basis of the evidence available to the Governor, (i) such rule, regulation, or order is necessary to address a compelling circumstance; (ii) no alternatives to the proposed rule, regulation, or order that are reasonable in light of the impact on quality of life and economic well-being exist; and (iii) the provisions of such rule, regulation, or order are narrowly tailored to address the compelling circumstance. Evidence considered by the Governor in issuing such rule, regulation, or order shall be made part of the record of such decision. The Governor may extend a rule, regulation, or order issued pursuant to this paragraph one time, for a period not to exceed 15 days, if (a) the Governor provides notice of his intent to extend the rule, regulation, or order and holds at least one public hearing, which shall include opportunity for public comment, prior to such extension and (b) on the basis of the evidence available to the Governor, (1) such rule, regulation, or order is necessary to address a compelling circumstance; (2) no alternatives to the proposed rule, regulation, or order that are reasonable in light of the impact on quality of life and economic

well-being exist; and (3) the provisions of such rule, regulation, or order are narrowly tailored to address the compelling circumstance. Evidence considered by the Governor in extending such rule, regulation, or order shall be made part of the record of such decision. For the purposes of this paragraph, any rule, regulation, or order that (1) limits the number of individuals who may gather together in person, in public or private, or (2) categorizes individuals on the basis of their relationship to or association with such individuals and limits the categories of individuals with whom an individual who is not known or reasonably suspected to have been exposed to or infected with a communicable disease of public health threat may associate shall be deemed to negatively impact the quality of life and economic well-being of residents of the Commonwealth. Any rule, regulation, or order adopted pursuant to this section shall comply with the requirements of § 57-2.02;

(2) To appoint a State Coordinator of Emergency Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in his discretion, any and all persons serving hereunder;

(3) To procure supplies and equipment, to institute training and public information programs relative to emergency management and to take other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces in time of need;

(4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;

(5) On behalf of the Commonwealth enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency is declared in another state and the Governor receives a written request for assistance from the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, he may declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations; and

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, the Governor may direct the Comptroller of the Commonwealth to issue warrants not to exceed $2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship.

§ 44-146.17. (Effective March 1, 2021, until July 1, 2023) Powers and duties of Governor.

The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation,

preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law and the violation thereof shall be punishable as a civil penalty of ~~not~~ *no* more than ~~$500 or as a Class 1 misdemeanor~~ *$100 per violation* in every case where the executive order declares that its violation shall have such force and effect. Where an executive order declares *that* a violation shall be punishable as a civil penalty, such violation shall be charged by summons and may be executed by a law-enforcement officer when such violation is observed by the officer. The summons used by a law-enforcement officer pursuant to this section shall be, in form, the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. The proceeds of such civil penalties collected pursuant to this section shall be paid and collected only in lawful money of the United States and paid into the state treasury to the credit of the Literary Fund. *In no case shall any person be assessed a total of more than $1,000 in penalties for violations of the same executive order.*

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

~~Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and emergencies, no~~ *No* rule, regulation, or order issued under this section shall have any effect beyond ~~June 30 next following the next adjournment of the regular session of the General Assembly but the same or a similar rule, regulation, or order may thereafter be issued again if not contrary to law~~ *15 days after the date of issuance. If, however, the General Assembly does not take any action on the rule, regulation, or order within the 15 days during which the rule, regulation, or order is effective, the Governor may once again issue the same rule, regulation, or order but shall thereafter be prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency.*

Notwithstanding the foregoing or any other provision of law, the Governor shall not issue any rule, regulation, or order pursuant to this subdivision unless, on the basis of the evidence available to the Governor, (i) such rule, regulation, or order is necessary to address a compelling circumstance; (ii) no alternatives to the proposed rule, regulation, or order that are reasonable in light of the impact on quality of life and economic well-being exist; and (iii) the provisions of such rule, regulation, or order are narrowly tailored to address the compelling circumstance. Evidence considered by the Governor in issuing such rule, regulation, or order shall be made part of the record of such decision. The Governor may extend a rule, regulation, or order issued pursuant to this paragraph one time, for a period not to exceed 15 days, if (a) the Governor provides notice of his intent to extend the rule, regulation, or order and holds at least one public hearing, which shall include opportunity for public comment, prior to such extension and (b) on the basis of the evidence available to the Governor, (1) such rule, regulation, or order is necessary to address a compelling circumstance; (2) no alternatives to the proposed rule, regulation, or order that are reasonable in light of the impact on quality of life and economic well-being exist; and (3) the provisions of such rule, regulation, or order are narrowly tailored to address the compelling circumstance. Evidence considered by the Governor in extending such rule, regulation, or order shall be made part of the record of such decision. For the purposes of this paragraph, any rule, regulation, or order that (1) limits the number of individuals who may gather together in person, in public or private, or (2) categorizes individuals on the basis of their relationship to or association with such individuals and limits the categories of individuals with whom an individual who is not known or reasonably suspected to have been exposed to or infected with a communicable disease of public health threat may associate shall be deemed to negatively impact the quality of life and economic well-being of residents of the Commonwealth. Any rule, regulation, or order adopted pursuant to this section shall comply with the requirements of § 57-2.02;

(2) To appoint a State Coordinator of Emergency Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in his discretion, any and all persons serving hereunder;

(3) To procure supplies and equipment, to institute training and public information programs relative to emergency management and to take other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces in time of need;

(4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;

(5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency is declared in another state and the Governor receives a written request for assistance from

the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations;

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, to direct the Comptroller of the Commonwealth to issue warrants not to exceed $2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship; and

(11) During a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to subdivision (7), to establish a program through which the Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such private, nongovernmental entities. If federal funding is available to establish and fund the program, the Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled to seek reimbursement for such purchases from the private, nongovernmental entities and may establish and charge fees to recover the cost of administering the program, including the cost of procuring and distributing the PPE. However, if federal funding is not available to establish and fund the program, the Governor shall, prior to making such purchases, receive a contract for payment for purchase from the private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall include any amortized costs of administering the program. Any purchase made by the Governor pursuant to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310 when possible. The Governor shall also provide for competition where practicable and include a written statement regarding the basis for awarding any contract. Prior to implementing such a program, the Department of Emergency Management shall consult with and survey private, nongovernmental entities in order to assess demand for participation in the program as well as the quantity and types of personal protective equipment such entities would like to procure.

As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health threat.

§ 44-146.17. (Effective July 1, 2023) Powers and duties of Governor.

The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation,

preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law ~~and the violation thereof shall be punishable as a Class 1 misdemeanor~~*, and any person who violates such an order is subject to a civil penalty of no more than $100 per violation* in every case where the executive order declares that its violation shall have such force and effect. *Where an executive order declares that a violation shall be punishable as a civil penalty, such violation shall be charged by summons and may be executed by a law-enforcement officer when such violation is observed by the officer. The summons used by a law-enforcement officer pursuant to this section shall be, in form, the same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. The proceeds of such civil penalties collected pursuant to this section shall be paid and collected only in lawful money of the United States and paid into the state treasury to the credit of the Literary Fund. In no case shall any person be assessed a total of more than $1,000 in penalties for violations of the same executive order.*

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

~~Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and emergencies, no~~ *No* rule, regulation, or order issued under this section shall have any effect beyond ~~June 30 next following the next adjournment of the regular session of the General Assembly but the same or a similar rule, regulation, or order may thereafter be issued again if not contrary to law~~ *15 days after the date of issuance. If, however, the General Assembly does not take any action on the rule, regulation, or order within the 15 days during which the rule, regulation, or order is effective, the Governor may once again issue the same rule, regulation, or order but shall thereafter be prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency.*

Notwithstanding the foregoing or any other provision of law, the Governor shall not issue any rule, regulation, or order pursuant to this subdivision unless, on the basis of the evidence available to the Governor, (i) such rule, regulation, or order is necessary to address a compelling circumstance; (ii) no alternatives to the proposed rule, regulation, or order that are reasonable in light of the impact on quality of life and economic well-being exist; and (iii) the provisions of such rule, regulation, or order are narrowly tailored to address the compelling circumstance. Evidence considered by the Governor in issuing such rule, regulation, or order shall be made part of the record of such decision. The Governor may extend a rule, regulation, or order issued pursuant to this paragraph one time, for a period not to exceed 15 days, if (a) the Governor provides notice of his intent to extend the rule, regulation, or order and holds at least one public hearing, which shall include opportunity for public comment, prior to such extension and (b) on the basis of the evidence available to the Governor, (1) such rule, regulation, or order is necessary to address a compelling circumstance; (2) no alternatives to the proposed rule, regulation, or order that are reasonable in light of the impact on quality of life and economic well-being exist; and (3) the provisions of such rule, regulation, or order are narrowly tailored to address the compelling circumstance. Evidence considered by the Governor in extending such rule, regulation, or order shall be made part of the record of such decision. For the purposes of this paragraph, any rule, regulation, or order that (1) limits the number of individuals who may gather together in person, in public or private, or (2) categorizes individuals on the basis of their relationship to or association with such individuals and limits the categories of individuals with whom an individual who is not known or reasonably suspected to have been exposed to or infected with a communicable disease of public health threat may associate shall be deemed to negatively impact the quality of life and economic well-being of residents of the Commonwealth. Any rule, regulation, or order adopted pursuant to this section shall comply with the requirements of § 57-2.02;

(2) To appoint a State Coordinator of Emergency Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in his discretion, any and all persons serving hereunder;

(3) To procure supplies and equipment, to institute training and public information programs relative to emergency management and to take other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces in time of need;

(4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;

(5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of

emergency is declared in another state and the Governor receives a written request for assistance from the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations;

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, to direct the Comptroller of the Commonwealth to issue warrants not to exceed $2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship; and

(11) During a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to subdivision (7), to establish a program through which the Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such private, nongovernmental entities. If federal funding is available to establish and fund the program, the Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled to seek reimbursement for such purchases from the private, nongovernmental entities and may establish and charge fees to recover the cost of administering the program, including the cost of procuring and distributing the PPE. However, if federal funding is not available to establish and fund the program, the Governor shall, prior to making such purchases, receive a contract for payment for purchase from the private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall include any amortized costs of administering the program. Any purchase made by the Governor pursuant to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except the Governor shall be encouraged to comply with the provisions of § 2.2-4310 when possible. The Governor shall also provide for competition where practicable and include a written statement regarding the basis for awarding any contract. Prior to implementing such a program, the Department of Emergency Management shall consult with and survey private, nongovernmental entities in order to assess demand for participation in the program as well as the quantity and types of personal protective equipment such entities would like to procure.

As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health threat.