

## 130th MAINE LEGISLATURE

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**Legislative Document** 

No. 131

H.P. 87

House of Representatives, January 21, 2021

## An Act To Amend the Governor's Emergency Powers

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ROBERT B. HUNT
Clerk

Presented by Representative DILLINGHAM of Oxford.

Cosponsored by Representatives: AUSTIN of Gray, BERNARD of Caribou, COLLAMORE of Pittsfield, KINNEY of Knox, KRYZAK of Acton, MORRIS of Turner, POIRIER of Skowhegan, TUELL of East Machias.

1	Be it enacted by the People of the State of Maine as follows:
2 3	<b>Sec. 1. 37-B MRSA §742, sub-§1, ¶C,</b> as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (6) to read:
4 5 6 7 8 9	(6) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, if the Governor determines this action necessary for the preservation of life or other disaster mitigation, response or recovery. An action taken under this subparagraph must be applied to the smallest political subdivision possible. Statewide application of this subparagraph must be approved by a majority of the membership of the Legislative Council;
10 11	<b>Sec. 2. 37-B MRSA §742, sub-§1, ¶C,</b> as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (8) to read:
12 13 14 15	(8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein. Occupancy limitations that would have a substantial impact on the operation of businesses in the State must be approved by a majority of the membership of the Legislative Council;
16 17	<b>Sec. 3. 37-B MRSA §742, sub-§1,</b> ¶ <b>C,</b> as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (9) to read:
18 19	(9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;
20 21	<b>Sec. 4. 37-B MRSA §742, sub-§1,</b> ¶ <b>C,</b> as amended by PL 2019, c. 617, Pt. H, §1, is further amended by amending subparagraph (12) to read:
22 23 24 25 26	(12) Take whatever action is necessary to abate, clean up or mitigate whatever danger may exist within the affected area. Any action under this subparagraph that would directly result in the temporary or permanent closure of any business or civic or religious organization must be approved by 2/3 of the membership of the Legislative Council; and
27	Sec. 5. 37-B MRSA §742, sub-§1, ¶E is enacted to read:
28 29	E. In dealing with a declared state of emergency under this subsection, the following powers may not be invoked:
30	(1) The eminent domain powers granted in section 821; and
31 32 33 34 35 36	(2) The enforcement powers granted in section 786, unless the Governor specifically invokes those powers by an order issued pursuant to a civil emergency proclamation and approved by 2/3 of the membership of the Legislative Council. That order must specify those emergency orders or rules that are enforceable pursuant to this subparagraph and must further specify the enforcement activities emergency management organizations are to pursue. An enforcement action may not be taken pursuant to this subparagraph, without publication of the order
37 38	not be taken pursuant to this subparagraph without publication of the order authorizing the action in a manner reasonably calculated to give affected persons
39 40	adequate notice of the order or rule to be enforced and the sanctions to be applied. Publication of the order may include publication on the Internet.

- **Sec. 6. 37-B MRSA §742, sub-§2,** ¶C, as amended by PL 2001, c. 353, §5, is further amended by amending subparagraph (2) to read:
  - (2) The enforcement powers granted in sections 786 and 829, unless the Governor specifically invokes these powers by an order issued pursuant to an energy emergency proclamation and approved by a majority 2/3 of the membership of the Legislative Council. That order must specify those emergency orders or rules that are enforceable pursuant to this paragraph and must further specify the enforcement activities emergency management organizations are to pursue. No An enforcement action may not be taken pursuant to this paragraph without publication of the order authorizing the action in a manner reasonably calculated to give affected persons adequate notice of the order or rule to be enforced, which may include publication on the Internet, and the sanctions to be applied. Publication of the order may include publication on the Internet.
- **Sec. 7. 37-B MRSA §743, sub-§2,** as enacted by PL 1983, c. 594, §34, is amended to read:
- 2. Limitation. No  $\underline{A}$  state of emergency may continue for longer than 30 days unless renewed by the Governor not be issued for a period longer than 30 days. Any subsequent renewal of the same state of emergency must receive approval by a 2/3 vote of each House of the Legislature. If the renewal is rejected by the Legislature, the Governor shall issue an executive proclamation ending the state of emergency within 24 hours of the rejection. A new state of emergency may not be declared for at least 30 days without approval by a majority vote of each House of the Legislature. The Legislature, by joint resolution, may terminate a state of emergency at anytime any time. Thereupon, the Governor shall issue an executive proclamation ending the state of emergency.

25 SUMMARY

 This bill limits a state of emergency proclaimed by the Governor to 30 days. It requires subsequent renewals of a state of emergency to receive approval from 2/3 of the membership of the Legislature. It also amends the Governor's powers during a state of emergency.