

AN ACT TO AMEND TITLE 20 OF THE DELAWARE CODE RELATING TO CIVIL DEFENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 20 of the Delaware Code by adding a new Chapter 32 to read as follows:

“Chapter 32. Intrastate Mutual Aid Compact

§3201. Preamble.

The purpose of this Chapter is to create a system of intrastate mutual aid between participating political subdivisions and fire, rescue and emergency medical service provider organizations in the State of Delaware (hereinafter referred to as “system”). Each participant of this system recognizes that emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential for the protection of lives and property and for best use of available assets both public and private. The system shall provide for mutual assistance among the participating political subdivisions and fire, rescue and emergency medical service provider organizations in the prevention of, response to, and recovery from, any disaster that results in a formal state of emergency in a participating political subdivision, subject to that participating political subdivisions criteria for declaration. If the State of Delaware declares a State of Emergency that covers the jurisdictional territory of a political subdivision for purposes of this Chapter, a State of Emergency has been declared by that political subdivision for purposes of this Chapter. The system shall provide for mutual cooperation among the participating political subdivisions and fire, rescue and emergency medical service provider organizations in conducting disaster-related exercises, testing or other training activities outside actual declared emergency periods. This Chapter provides no immunity, rights or privileges for any individual responding to a state of emergency that is not requested and/or authorized to respond by a participating political subdivision or fire, rescue, or emergency medical service provider organization. Participating political subdivision and fire, rescue, and emergency service provider organizations will be ensured, to the fullest extent possible, eligibility for state and federal disaster funding.

§3202. Delaware Mutual Aid Committee.

(a) A committee shall be created known as the Delaware Intrastate Mutual Aid Committee. It shall be the committee’s responsibility to hold, at a minimum, annual meetings to review the progress and status of statewide mutual aid, assist in developing methods to track and evaluate activation of the system and to examine issues facing participating political subdivisions and fire, rescue, and

emergency medical service provider organizations regarding the implementation of this Chapter. The Director of the Delaware Emergency Management Agency shall chair the committee. The committee may prepare an annual report on the condition and effectiveness of mutual aid in the State of Delaware, make recommendations for correcting any deficiencies, and submit that report to the Delaware General Assembly. Members of the committee shall serve a two-year term and shall be appointed by the Governor of the State of Delaware.

(b) The membership of the committee shall consist of:

- (1) The President of the Delaware Volunteer Firemen's Association, or designee;
- (2) The President of the Delaware State Fire Chief's Association, or designee;
- (3) A representative from each of the county emergency management agencies;
- (4) A representative from the League of Local Governments;
- (5) A representative from the Delaware State Police Chief's Council;
- (6) A representative from the city of Wilmington emergency management agency;
- (7) The Director of the Delaware Emergency Management Agency;
- (8) A representative from a municipality with a population less than 50,000 from each county;
- (9) The Superintendent from the Delaware State Police; or designee.
- (10) A representative from the Delaware National Guard;
- (11) The Director of the Delaware State Fire School or designee; and
- (12) Other representatives as deemed necessary by the Director of the Delaware Emergency Management Agency.

§3203. Statewide Mutual Aid System.

All political subdivisions and fire, rescue, and emergency medical service provider organizations within the State of Delaware are, upon enactment of this Chapter automatically a part of the statewide mutual aid system. A political subdivision or fire, rescue or emergency medical service provider organization within the State of Delaware may elect not to participate or to later withdraw from the system upon enacting an appropriate resolution by its governing body declaring that it elects not to participate in the statewide mutual aid system; and providing a copy of the resolution to the Director of the Delaware Emergency Management Agency. This Chapter does not preclude participating political subdivisions and fire, rescue and emergency medical service provider organizations from entering into supplementary agreements with another political subdivision or fire, rescue, or emergency medical service provider organizations and does not affect any other agreement to which a political subdivision or fire, rescue or emergency medical service provider organization may currently be a party to, or decide to be a part to.

§3204. Definitions.

- a. 'Emergency Responder' is a law enforcement officer, firefighter, emergency management responder, hazardous materials responder, or emergency medical services responder.
- b. 'Support Responder' is any municipal, county, or state employee, who is not an emergency responder, with special skills, qualifications, training, knowledge and experience in the public or private sectors that would be beneficial to a participating political subdivision in response to a locally declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and who is requested and/or authorized to respond. Under this definition, a support responder may or may not be required to possess a license, certificate, permit or other official recognition for their expertise in a particular field or area of knowledge.
- c. 'Political Subdivision' is any town, city or county within the State of Delaware.
- d. 'Fire, rescue or emergency medical service provider organization' is any fire, rescue or emergency medical service provider organization recognized by the State Fire Prevention Commission."
- e. 'Locally-declared emergency' is an emergency as declared by a political subdivision.

§3205. Participating Political Subdivisions Responsibilities.

It shall be the responsibility of each participating political subdivision with jurisdiction over and responsibility for emergency management within that certain subdivision to do the following:

- a. Identify potential hazards that could affect the participant using an identification system common to all participating jurisdictions.
- b. Conduct joint planning, intelligence sharing and threat assessment development with contiguous participating political subdivisions, and conduct joint training at least biennially.
- c. Identify and inventory the current services, equipment, supplies, personnel and other resources related to planning, prevention, mitigation, response and recovery activities of the participating political subdivision.
- d. Adopt and put into practice the standardized incident management system approved by the Director of the Delaware Emergency Management Agency.

§3206. Implementation.

A participating political subdivision may request assistance of other participating political subdivisions or fire, rescue or emergency medical service provider organizations in preventing, mitigating, responding to and recovering from disasters that result in locally-declared emergencies or in concert with authorized drills or exercises as allowed under this Chapter. Requests for assistance shall be made through the chief executive officer of a participating political subdivision or his/her designee. Requests may either be verbal or in writing and are not required to go directly to the Director of the Delaware Emergency Management Agency but in all cases will be reported to the Director as soon as is practical. Verbal requests will be followed up with a written request as soon as is practical but in no event later than 15 days.

§3207. Limitations.

A participating political subdivision or fire, rescue or emergency medical service provider organization's obligation to provide assistance in the prevention of, response to and recovery from a locally-declared emergency or in authorized drills or exercises is subject to the following conditions:

(a) A participating political subdivision requesting assistance must have either declared a state of emergency or authorized drills and exercises.

(b) A responding participating political subdivision or fire, rescue or emergency medical service provider organization may withhold resources to the extent necessary to provide reasonable protection and services for its own jurisdiction.

(c) Emergency response and support response personnel of a responding participating political subdivision or fire, rescue or emergency medical service provider organization shall continue under the command and control of their responding subdivision or organization to include medical protocols, standard operating procedures and other protocols, but shall be under the operational control of the appropriate officials within the incident management system of the participating political subdivision receiving the assistance.

(d) Assets and equipment of a responding participating political subdivision or fire, rescue or emergency medical service provider organization shall continue under the control of their responding subdivision or organization, but shall be under the operational control of the appropriate officials within the incident management system of the participating political subdivision receiving the assistance.

§3208. License, Certificate and Permit Portability.

If a person or entity holds a license, certificate or other permit issued by a participating political subdivision or for the State of Delaware evidencing qualification in a professional, mechanical or other skill and the assistance of that person or entity is requested by a participating political subdivision, the person or entity shall be deemed to be licensed, certified or permitted in the political subdivision requesting assistance for the duration of the declared emergency or authorized drills or exercises and subject to any limitations and conditions the chief executive of the participating political subdivision receiving the assistance may prescribe by executive order or otherwise.

§3209. Reimbursement, Disputes Regarding Reimbursement.

Any requesting political subdivision shall reimburse the participating political subdivision or fire, rescue or emergency medical service provider organization rendering aid under this system. A participating political subdivision or fire, rescue or emergency medical service provider organization providing assistance may determine to donate assets of any kind to a receiving participating political subdivision. Such requests for reimbursement shall be in accordance with procedures developed by the Delaware Intrastate Mutual Aid Committee.

Should a dispute arise between parties to the system regarding reimbursement, involved parties will make every effort to resolve the dispute within 30 days of written notice of the dispute by the party asserting noncompliance. In the event that the dispute is not resolved within 90 days of the notice of the claim, either party may request the dispute be solved through arbitration. Any arbitration under this provision shall be conducted under the commercial arbitration rules of the American Arbitration Association.

§3210. Development of Guidelines and Procedures.

The Delaware Intrastate Mutual Aid Committee shall develop comprehensive guidelines and procedures that address, including but not limited to, the following: projected or anticipated costs, checklists for requesting and providing assistance, record keeping for all participating political subdivisions, reimbursement procedures and other necessary implementation elements along with the necessary forms for requests and other records documenting deployment and return of assets.

§3211. Workers' Compensation.

Personnel of a participating political subdivision or fire, rescue or emergency medical service organization responding to or rendering assistance for a request who sustain injury or death in the course of, and arising out of, their employment are entitled to all applicable benefits normally available to personnel while performing their duties for their employer. Responders shall receive any additional state and federal benefits that may be available to them for line of duty deaths. This subsection shall not limit the remedies or causes of action normally available to such individuals while performing their duties for their employer.

§3212. Immunity.

All activities performed under this Chapter are deemed hereby to be governmental functions. For the purposes of liability, all employees or personnel of a political subdivision or fire, rescue, or emergency medical service organization responding under the operational control of the requesting political subdivision are deemed to be employees of the requesting political subdivision. Neither the participating political subdivisions, or fire, rescue or emergency medical service provider organizations nor their employees or personnel shall be liable for the death of or injury to person, or for damage to property when providing assistance during a locally-declared emergency pursuant to this chapter unless such death, injury or damage was intentional or caused by the willful or wanton disregard of the rights of others, or by gross negligence.

§3213. Severability.

Should a court of competent jurisdiction rule any portion, section or subsection of this Chapter invalid or nullified, that fact shall not affect or invalidate any other portion, section or subsection; and all remaining portions, sections or subsections shall remain in full force and effect.”