

[§ 3121](#) [§ 3122](#) [§ 3122A](#) [§ 3123](#) [§ 3124](#) [§ 3125](#) [§ 3126](#) [§ 3127](#) [§ 3128](#) [§ 3129](#) [§ 3130](#)

TITLE 20

Military and Civil Defense

Civil Defense

CHAPTER 31. Emergency Management

Subchapter IV. Miscellaneous Provisions

§ 3121. Orders, rules and regulations.

(a) Other state agencies designated or appointed by the Governor may make, amend and rescind orders, rules and regulations necessary for emergency management purposes and for supplementing the carrying out of this chapter, but not inconsistent with any orders, rules or regulations promulgated by the Governor or by any state agency exercising a power delegated by the Governor.

(b) All orders, rules and regulations promulgated by the Governor or other agency authorized by this chapter to make orders, rules and regulations shall have the full force and effect of law when issued by the Governor or any state agency or when logged and memorialized by the DEMA director in accordance with this chapter. All existing laws, ordinances, rules and regulations inconsistent with this chapter shall be suspended during the period of time of the emergency or disaster and to the extent that such conflict exists.

(c) In order to attain uniformity so far as practicable throughout the nation in measures taken to aid emergency management, all action taken under this chapter and all orders, rules and regulations made pursuant thereto shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations and requests of federal authorities relevant thereto and, to the extent permitted by law or practical, shall be consistent with such orders, rules, regulations, actions, recommendations and requests.

48 Del. Laws, c. 189, § 14 (<https://legis.delaware.gov/SessionLaws?volume=48&chapter=189>); 20 Del. C. 1953, § 3113;
63 Del. Laws, c. 254, § 1 (<https://legis.delaware.gov/SessionLaws?volume=63&chapter=254>); 70 Del. Laws, c. 186, § 1
(<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>); 71 Del. Laws, c. 207, § 1
(<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>);

§ 3122. Enforcement.

The law-enforcement authorities of this State and of the political subdivisions of this State shall enforce the orders, rules and regulations issued pursuant to this chapter.

48 Del. Laws, c. 189, § 15 (<https://legis.delaware.gov/SessionLaws?volume=48&chapter=189>); 20 Del. C. 1953, § 3114;
63 Del. Laws, c. 254, § 1 (<https://legis.delaware.gov/SessionLaws?volume=63&chapter=254>); 71 Del. Laws, c. 207, § 1
(<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>); 75 Del. Laws, c. 354, § 1
(<https://legis.delaware.gov/SessionLaws?volume=75&chapter=354>); 77 Del. Laws, c. 245, § 1
(<https://legis.delaware.gov/SessionLaws?volume=77&chapter=245>);

§ 3122A. Delaware State Police Ready Reserve.

Repealed by 77 Del. Laws, c. 245, § 2, effective April 27, 2010.

§ 3123. Authority to accept services, gifts, grants and loans.

Whenever the federal government, an agency or any person shall offer to this State, or through this State to any political subdivision of this State, services, equipment, supplies, materials or funds by way of gift, grant or loan for purposes of emergency management, this State, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through such political subdivision's executive officer or governing body, may authorize any officer of this State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of this State or such political subdivision, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

48 Del. Laws, c. 189, § 17 (<https://legis.delaware.gov/SessionLaws?volume=48&chapter=189>); 20 Del. C. 1953, § 3116; 63 Del. Laws, c. 254, § 1 (<https://legis.delaware.gov/SessionLaws?volume=63&chapter=254>); 71 Del. Laws, c. 207, § 1 (<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>);

§ 3124. Political activity.

No emergency management organization established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

48 Del. Laws, c. 189, § 18 (<https://legis.delaware.gov/SessionLaws?volume=48&chapter=189>); 20 Del. C. 1953, § 3117; 63 Del. Laws, c. 254, § 1 (<https://legis.delaware.gov/SessionLaws?volume=63&chapter=254>); 71 Del. Laws, c. 207, § 1 (<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>);

§ 3125. Penalties.

Except where specified penalties are prescribed in this chapter, whoever violates this chapter or an emergency order issued pursuant to this chapter may be fined not less than \$50 nor more than \$500 or imprisoned up to 6 months for each violation.

48 Del. Laws, c. 189, § 20 (<https://legis.delaware.gov/SessionLaws?volume=48&chapter=189>); 20 Del. C. 1953, § 3119; 63 Del. Laws, c. 254, § 1 (<https://legis.delaware.gov/SessionLaws?volume=63&chapter=254>); 71 Del. Laws, c. 207, § 1 (<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>);

§ 3126. Laws suspended during emergencies or disasters.

In the case of a declaration of a state of emergency by the Governor, state agencies may implement their emergency or disaster assignments without regard to procedures required by other laws (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds.

20 Del. C. 1953, § 3126; 56 Del. Laws, c. 118, § 2 (<https://legis.delaware.gov/SessionLaws?volume=56&chapter=118>); 70 Del. Laws, c. 186, § 1 (<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>); 71 Del. Laws, c. 207, § 1 (<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>);

§ 3127. Conflict with other laws.

(a) Whenever the restrictions of any other statute, local ordinance or regulation are consistent with but more restrictive than the restrictions imposed pursuant to this chapter, such statute, local ordinance or regulation shall govern.

(b) During a state of emergency, whenever the restrictions imposed pursuant to this chapter are inconsistent and in conflict with those required by any other statute, local ordinance or regulation, the provisions of the emergency order imposed pursuant to this chapter shall govern.

(c) Nothing contained in this chapter shall be construed to infringe in any way upon the powers of the fire officers-in-charge as defined in § 6701A of Title 16, or any successor statute.

20 Del. C. 1953, § 3127; 56 Del. Laws, c. 118, § 2 (<https://legis.delaware.gov/SessionLaws?volume=56&chapter=118>); 71 Del. Laws, c. 207, § 1 (<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>);

§ 3128. Destruction of property, looting or injury of persons during state of emergency; penalty; liability for conduct of another.

(a) During a state of emergency, whoever maliciously destroys or damages any real or personal property or maliciously injures another shall be guilty of a felony.

(b) Whoever violates this section shall be guilty of a Class C felony.

(c) Any person over 16 years old who violates this section shall be prosecuted as an adult.

(d) A person is guilty of an offense under this section committed by another person when:

(1) Acting with the state of mind that is sufficient for commission of the offense, such person causes an innocent or irresponsible person to engage in conduct constituting the offense; or

(2) Intending to promote or facilitate the commission of the offense that person:

a. Solicits, requests, commands, importunes or otherwise attempts to cause the other person to commit it; or

b. Aids, counsels or agrees or attempts to aid the other person in planning or committing it; or

c. Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so.

(e) In any prosecution for an offense under this section in which the criminal liability of the accused is based upon the conduct of another person pursuant to this section, it is no defense that:

(1) The other person is not guilty of the offense in question because of irresponsibility or other legal incapacity or exemption or because of unawareness of the criminal nature of the conduct in question or of the accused's criminal purpose or because of other factors precluding the mental state required for the commission of the offense; or

(2) The other person has not been prosecuted for or convicted of any offense based on the conduct in question or has previously been acquitted thereof or has been convicted of a different offense or in a different degree or has legal immunity from prosecution for the conduct in question.

20 Del. C. 1953, § 3129; 56 Del. Laws, c. 118, § 2 (<https://legis.delaware.gov/SessionLaws?volume=56&chapter=118>); 70 Del. Laws, c. 186, § 1 (<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>); 71 Del. Laws, c. 207, § 1 (<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>);

§ 3129. Immunity from civil liability.

(a) Neither the State, nor any county in the State, nor any municipal corporation of the State, nor any other political subdivision of the State, nor any agency of any of them, nor the agents, employees or representatives of any of them, nor any qualified medical personnel engaged in emergency or disaster relief operations and activities in connection with any emergency or disaster pursuant to this chapter, nor any person, firm, corporation or other entity performing work and/or furnishing material pursuant to a contract (oral or written) with the State or with any county in the State, or with any municipal corporation of the State, or with any other political subdivision of the State or with any agency of any of them, entered into as a result of the declaration by the Governor of an emergency order or entered into as a part of efforts to comply with this chapter, shall be liable for the death of or any injury to persons, or damage to property, as a result of such relief operations and activities and/or the performance of or attempts to perform such contract, unless

such death, injury or damage was intentional on the part of, or was caused by the wilful or wanton disregard of the rights of others by the State, or by the county, or by the municipal corporation, or by the other political subdivision, as the case may be, or by any agency of any of them, or by the agents, employees or representatives of any of them or by the qualified medical personnel or by such person, firm, corporation or other entity engaged in such emergency or disaster relief operations and activities and/or the performance and attempted performance of such contract, as the case may be. These provisions shall not affect the right of any person to receive statutory benefits to which that person would otherwise be entitled in the absence of this section or under the Workers' Compensation Act (Chapter 23 of Title 19) or under any pension law, or the right of any such person to receive any benefits or compensation under any act of Congress.

(b) No act or omission of qualified medical personnel during such relief operations and activities shall affect an insured physician's liability coverage in any way.

(c) Qualified medical personnel may petition a court of competent jurisdiction for a court-appointed attorney to represent the medical provider's interests in any action brought based on the medical provider's acts or omissions during the emergency or disaster relief operations and activities. If the judge, after consideration of the petition, examination of the petitioner and receipt of such further evidence as the judge may require, determines that the petition has merit, the judge shall appoint an attorney to represent the interests of such medical provider. The court may first appoint an attorney from the Department of Justice. If the court determines that the Department is unable to represent the medical provider, the court may appoint an attorney licensed in this State. A court-appointed attorney shall represent the medical provider in all proceedings from the date of appointment until a final determination of the matter has been reached, unless the attorney is earlier released by the medical provider or by the court. This section shall also apply to all federal courts within this State.

(d) Qualified medical personnel under this chapter shall be indemnified by the State against any expenses (including attorneys' fees and disbursements), judgments, fines and costs, actually and reasonably incurred in defending against the action, suit or proceeding giving rise thereto.

59 Del. Laws, c. 506, § 1 (<https://legis.delaware.gov/SessionLaws?volume=59&chapter=506>); 70 Del. Laws, c. 186, § 1 (<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>); 71 Del. Laws, c. 207, § 1 (<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>); 76 Del. Laws, c. 180, §§ 2, 3 (<https://legis.delaware.gov/SessionLaws?volume=76&chapter=180>);

§ 3130. Construction of chapter.

This chapter is intended to protect the health, property, environment and safety of the people of Delaware and shall be liberally construed to validate any emergency or disaster action undertaken by the State in good faith for that purpose. Without limiting the general intent of this section, any emergency order shall be interpreted as to provide the State with the maximum opportunity to obtain federal emergency or disaster relief assistance for the State.

48 Del. Laws, c. 189, § 21 (<https://legis.delaware.gov/SessionLaws?volume=48&chapter=189>); 20 Del. C. 1953, § 3121; 63 Del. Laws, c. 254, § 1 (<https://legis.delaware.gov/SessionLaws?volume=63&chapter=254>); 71 Del. Laws, c. 207, § 1 (<https://legis.delaware.gov/SessionLaws?volume=71&chapter=207>);

Delaware General Assembly (<http://legis.delaware.gov/>)

Judicial (<http://courts.delaware.gov/>)

Executive (<http://delaware.gov>)

Contact (<http://delaware.gov/help/degov-contact.shtml>)

Twitter (https://twitter.com/delaware_gov/)

