CHAPTER 10. GOVERNOR
REVISED STATUTES OF 1846

CHAPTER 12

Chapter 12. Of certain state officers.

THE GOVERNOR.

10.2 Governor, governor-elect; order of succession, salary.

Sec. 2. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general, the president pro tempore of the senate and the speaker of the house of representatives shall in that order be governor for the remainder of the governor's term. In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect, shall become governor in that order at the commencement of the governor-elect's term. If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in such order of precedence until the absence or inability giving rise to the devolution of powers and duties ceases. The salary of any state officer while acting as governor due to the inability of his predecessor to discharge his powers and duties as governor shall be increased by an amount so that his total state salary is equal to that of governor.

History: R.S. 1846, Ch. 12;—CL 1857, 141;—CL 1871, 204;—How. 260;—CL 1897, 63;—CL 1915, 85;—CL 1929, 122;—CL 1948, 10.2;—Am. 1963, 2nd Ex. Sess., Act 20, Imd. Eff. Jan. 1, 1964.

10.3 Repealed. 2000, Act 198, Imd. Eff. June 22, 2000.

Compiler's note: The repealed section pertained to appointment of private secretary and executive clerk.

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CLERKS AND ASSISTANTS
Act 6 of 1901

AN ACT to provide for the employment of clerks or assistants in the executive office of this state.

History: 1901, Act 6, Imd. Eff. Feb. 5, 1901.

The People of the State of Michigan enact:

10.11 Additional clerks and assistants; employment; compensation.

Sec. 1. The governor may from time to time employ clerks and assistants in addition to those already provided for by law, for service in his or her department, as the governor may consider necessary, the compensation of those clerks and assistants to be determined by the governor and to be paid from the general fund on the warrant of the state treasurer, in like manner as the salaries of state officers are paid.

History: 1901, Act 6, Imd. Eff. Feb. 5, 1901;—CL 1915, 87;—CL 1929, 124;—CL 1948, 10.11;—Am. 2002, Act 379, Imd. Eff. May 24, 2002.

VACANCY IN OFFICE OF GOVERNOR
Act 343 of 1939

10.21 Repealed. 1963, 2nd Ex. Sess., Act 20, Eff. Jan. 1, 1964.

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EMERGENCY POWERS OF GOVERNOR
Act 302 of 1945

AN ACT authorizing the governor to proclaim a state of emergency, and to prescribe the powers and duties of the governor with respect thereto; and to prescribe penalties.

History: 1945, Act 302, Imd. Eff. May 25, 1945.

The People of the State of Michigan enact:

10.31 Proclamation of state of emergency; promulgation of orders, rules, and regulations; seizure of firearms, ammunition, or other weapons.

Sec. 1. (1) During times of great public crisis, disaster, rioting, catastrophe, or similar public emergency within the state, or reasonable apprehension of immediate danger of a public emergency of that kind, when public safety is imperiled, either upon application of the mayor of a city, sheriff of a county, or the commissioner of the Michigan state police or upon his or her own volition, the governor may proclaim a state of emergency and designate the area involved. After making the proclamation or declaration, the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control. Those orders, rules, and regulations may include, but are not limited to, providing for the control of traffic, including public and private transportation, within the area or any section of the area; designation of specific zones within the area in which occupancy and use of buildings and ingress and egress of persons and vehicles may be prohibited or regulated; control of places of amusement and assembly and of persons on public streets and thoroughfares; establishment of a curfew; control of the sale, transportation, and use of alcoholic beverages and liquors; and control of the storage, use, and transportation of explosives or inflammable materials or liquids deemed to be dangerous to public safety.

(2) The orders, rules, and regulations promulgated under subsection (1) are effective from the date and in the manner prescribed in the orders, rules, and regulations and shall be made public as provided in the orders, rules, and regulations. The orders, rules, and regulations may be amended, modified, or rescinded, in the manner in which they were promulgated, from time to time by the governor during the pendency of the emergency, but shall cease to be in effect upon declaration by the governor that the emergency no longer exists.

(3) Subsection (1) does not authorize the seizure, taking, or confiscation of lawfully possessed firearms, ammunition, or other weapons.

History: 1945, Act 302, Imd. Eff. May 25, 1945;—CL 1948, 10.31;—Am. 2006, Act 546, Imd. Eff. Dec. 29, 2006.

10.32 Construction of act.

Sec. 2. It is hereby declared to be the legislative intent to invest the governor with sufficiently broad power of action in the exercise of the police power of the state to provide adequate control over persons and conditions during such periods of impending or actual public crisis or disaster. The provisions of this act shall be broadly construed to effectuate this purpose.

History: 1945, Act 302, Imd. Eff. May 25, 1945;—CL 1948, 10.32.

10.33 Violation; misdemeanor.

Sec. 3. The violation of any such orders, rules and regulations made in conformity with this act shall be punishable as a misdemeanor, where such order, rule or regulation states that the violation thereof shall constitute a misdemeanor.

History: 1945, Act 302, Imd. Eff. May 25, 1945;—CL 1948, 10.33.

ENERGY EMERGENCY
Act 38 of 1979

10.41-10.48 Expired. 1981, Act 53, Eff. June 1, 1982.

Compiler's note: Subsequent to the expiration of MCL 10.41 to 10.48, the expired sections were repealed by Act 191 of 1982.

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SPECIAL COMMISSIONS
Act 195 of 1931

AN ACT to authorize the creation of special commissions and to prescribe their powers and duties; and to make an appropriation therefor.

History: 1931, Act 195, Imd. Eff. May 28, 1931.

The People of the State of Michigan enact:

10.51 Special study commissions; creation, name, dissolution.

Sec. 1. The governor is hereby authorized and empowered, at such times and for such purposes as he may deem necessary or advisable, to create special commissions consisting of as many members as he may deem appropriate, with the powers and duties as hereinafter prescribed. Each of such commissions shall be designated and known by some suitable name. Whenever in the judgment of the governor, any special commission created under this act has fully completed the work assigned to it or fulfilled the purposes for which it was created, or the need for such a commission for any reason no longer exists, the governor may, by executive order declare such commission dissolved and the members thereof shall thenceforth be relieved of all official duties as such.

History: 1931, Act 195, Imd. Eff. May 28, 1931;—CL 1948, 10.51.

10.52 Special commissions; members; compensation and expenses.

Sec. 2. The members of each of the commissions thus created shall be appointed by the governor from among resident citizens of this state and shall hold the office to which appointed from the date of such appointment until the appointment and qualification of a successor. Vacancies in any of such offices shall likewise be filled by the governor. Each member shall qualify by taking the constitutional oath of office. The members of such commissions shall serve without compensation. Actual and necessary traveling expenses and other expenses necessarily incurred by members while on the business of their respective commissions shall be paid from the appropriations for the expenses of the respective commissions upon proper voucher therefor, signed by the chairman of the proper commission.

History: 1931, Act 195, Imd. Eff. May 28, 1931;—CL 1948, 10.52.

10.53 Special commissions; organization, officers, sub-commissions, rules of procedure.

Sec. 3. As soon as practicable after creation of a commission and the appointment and qualification of its members, they shall meet at the direction of the governor for purposes of organization. Each commission shall thereupon elect a chairman, as many vice-chairmen as may be advisable, and a secretary, and may appoint such sub-commission as it may deem necessary or advisable. Each commission may adopt its own rules of procedure.

History: 1931, Act 195, Imd. Eff. May 28, 1931;—CL 1948, 10.53.

10.54 Special commissions; discharge of duties.

Sec. 4. Each commission shall, with all reasonable dispatch after formal organization, enter upon the discharge of the duties imposed upon it and shall hold such meetings and make such study and examination as may from time to time be necessary in the fulfillment of the purposes for which it was created.

History: 1931, Act 195, Imd. Eff. May 28, 1931;—CL 1948, 10.54.

10.55 Special commissions; examination, study, inquiry, reports.

Sec. 5. Each commission shall examine, study and inquire into all matters and things in relation to the purpose for which the commission was created; and shall report to the legislature in writing upon the beginning of its biennial session, and at such other times as the legislature or the governor shall direct, its findings and recommendations together with drafts of bills covering such proposed legislation as it may recommend.

History: 1931, Act 195, Imd. Eff. May 28, 1931;—CL 1948, 10.55.

10.56 Special commissions; assistance from public officials, access to records.

Sec. 6. All departments, boards, commissions, or officers of the state or of any political subdivision thereof, shall give to every such commission, or to any member or representative thereof, any necessary assistance required by such commission or any member or representative thereof in the performance of the duties of such commission so far as is compatible with its or his other duties; free access shall also be given to

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any books, records or documents in his or its custody, relating to matters within the scope of the study or investigation of such commission.

History: 1931, Act 195, Imd. Eff. May 28, 1931;—CL 1948, 10.56.

10.57 Special commissions; general fund appropriation, apportionment by administrative board.

Sec. 7. For the purposes of this act there is hereby appropriated out of the general fund of this state such amount as shall be contained in the biennial budget therefor. The state administrative board shall, out of such appropriations, assign a definite portion thereof as a specific appropriation for the expenses of each commission when, as and if created.

History: 1931, Act 195, Imd. Eff. May 28, 1931;—CL 1948, 10.57.

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TERM OF APPOINTIVE OFFICES
Act 146 of 1877

AN ACT to define and limit the term of office of officers and commissioners, appointed by the governor, in cases not otherwise defined and limited.

History: 1877, Act 146, Eff. Aug. 21, 1877.

The People of the State of Michigan enact:

10.61 Terms of appointive offices.

Sec. 1. That the term of office of officers and commissioners appointed by the governor, in cases not otherwise provided, or where no term is specified in the act creating such office or commission, shall expire 2 years from the first day of January of the year when the appointment is made, unless the appointment shall be by the commission limited to a shorter term, in which case it shall cease as limited, or unless the appointment be to fill a vacancy, in which case it shall continue for the remainder of the term: Provided, That in cases where by law the office does not expire with the term, such officers shall hold the office and continue to act until their successors are appointed and have qualified.

History: 1877, Act 146, Eff. Aug. 21, 1877;—How. 338;—CL 1897, 168;—CL 1915, 212;—CL 1929, 402;—CL 1948, 10.61.

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MICHIGAN WOMEN'S COMMISSION
Act 1 of 1968

AN ACT to establish a Michigan women's commission; and to prescribe its powers and duties.

History: 1968, Act 1, Eff. Nov. 15, 1968.

Compiler's note: For transfer of the functions, duties, and responsibilities of the Michigan Women's Commission from the Department of Management and Budget to the Director of the Department of Civil Rights as head of the department, see E.R.O. No. 1991-20 compiled at MCL 37.111 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

10.71 Michigan women's commission; establishment, ex-officio membership; unit in executive office of the governor.

Sec. 1. The Michigan women's commission is established and consists of 15 members broadly representative of all fields of interest to women. The heads of the following departments or their representatives are ex officio members of the commission: civil service, education, labor and social services. The commission is an independent unit in the executive office of the governor, except for budgeting, procurement and related management functions.

History: 1968, Act 1, Eff. Nov. 15, 1968.

Compiler's note: For transfer of the functions, duties, and responsibilities of the Michigan Women's Commission from the Department of Management and Budget to the Director of the Department of Civil Rights as head of the department, see E.R.O. No. 1991-20 compiled at MCL 37.111 of the Michigan Compiled Laws.

Transfer of powers: See MCL 18.22.

10.72 Members; appointment, term, vacancies, officers, expenses.

Sec. 2. The governor shall appoint by and with the advice and consent of the senate the members of the commission for terms of 3 years, except that of the members first appointed, 5 each shall be appointed for terms of 1, 2 and 3 years. Vacancies shall be filled in the same manner as the original appointments and for the balance of the unexpired term. The governor shall designate a chairman and a vice-chairman from the members of the commission. The chairman shall be the chief executive officer of the commission. The commission may appoint such other officers as it deems necessary. The members of the commission shall be reimbursed only for their actual and necessary expenses incurred in the performance of their duties.

History: 1968, Act 1, Eff. Nov. 15, 1968.

10.72a Conducting business at public meeting; notice; availability of writings to public.

Sec. 2a. (1) The business which the women's commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by the women's commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1978, Act 187, Imd. Eff. June 4, 1978.

10.73 Powers and duties.

Sec. 3. The commission shall:

(a) Stimulate and encourage throughout the state study and review of the status of women in this state.

(b) Strengthen home life by directing attention to critical problems confronting women as wives, mothers, homemakers and workers.

(c) Recommend methods of overcoming discrimination against women in public and private employment and civil and political rights.

(d) Promote more effective methods for enabling women to develop their skills, continue their education, and to be retrained.

(e) Make surveys and appoint advisory committees in the fields of, but not limited to, education, social services, labor laws and employment policies, law enforcement, health, new and expanded services, legal rights, family relations and volunteer services.

(f) Secure appropriate recognition of women's accomplishments and contributions to this state.

History: 1968, Act 1, Eff. Nov. 15, 1968.

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10.74 Acceptance of federal funds, private gifts and donations.

Sec. 4. The commission may accept federal funds granted by congress or executive order for all or any of the purposes of this act as well as private gifts and donations from individuals, private organizations or foundations: Provided, That the acceptance and use of federal funds commits no state funds and places no obligation upon the legislature to continue the purposes for which the funds are made available.

History: 1968, Act 1, Eff. Nov. 15, 1968.

10.75 Cooperation of state agencies.

Sec. 5. The commission shall have the full cooperation of all executive departments and agencies of the state in the performance of its duties.

History: 1968, Act 1, Eff. Nov. 15, 1968.

10.76 Annual report to governor.

Sec. 6. The commission shall submit an annual report to the governor including recommendations based on its studies.

History: 1968, Act 1, Eff. Nov. 15, 1968.

10.77 Promulgation of rules and regulations.

Sec. 7. The commission shall have no authority to promulgate rules and regulations.

History: 1968, Act 1, Eff. Nov. 15, 1968.

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DECLARATION OF STATE OF ENERGY EMERGENCY
Act 191 of 1982

AN ACT to provide for the declaration of a state of energy emergency; to provide for procedures to be followed after a declaration of a state of energy emergency; to create an energy advisory committee and prescribe its powers and duties; to prescribe the powers and duties of the governor; to prescribe penalties; and to repeal certain acts and parts of acts.

History: 1982, Act 191, Imd. Eff. June 23, 1982.

The People of the State of Michigan enact:

10.81 Definitions.

Sec. 1. As used in this act:

(a) "Energy advisory committee" means the committee created under section 2.

(b) "Energy emergency" means a condition of danger to the health, safety, or welfare of the citizens of this state due to an impending or present energy shortage.

(c) "Energy resource" means electricity, natural gas, synthetic gas, a petroleum product including a liquefied petroleum gas, coal, wood fuel, geothermal source, hydropower, nuclear material, or other source producing power or heat.

(d) "Energy resource supplier" means a person who furnishes an energy resource for the public at the wholesale or retail level.

(e) "Energy shortage" means lack of adequate available energy resources in the state, or any part of the state, as determined by the energy advisory committee or the governor.

(f) "Person" means an individual, partnership, corporation, organization, or association of any kind.

History: 1982, Act 191, Imd. Eff. June 23, 1982;—Am. 1990, Act 229, Imd. Eff. Oct. 8, 1990.

Compiler's note: For transfer of functions relating to energy policy from the Energy Administration, Department of Commerce, to the Public Service Commission, Department of Commerce, see E.R.O. No. 1986-4, compiled at MCL 460.901 of the Michigan Compiled Laws.

10.82 Energy advisory committee; creation; membership; chairperson; notifying governor of impending energy emergency; determination.

Sec. 2. (1) An energy advisory committee is created. The committee shall consist of the director of commerce, the director of the department of agriculture, the chairperson of the Michigan public service commission, the director of public health, the director of transportation, and the director of the department of state police. The governor shall designate 1 of the 6 members of the energy advisory committee as chairperson of the committee.

(2) The energy advisory committee shall notify the governor of an impending energy emergency. The energy advisory committee shall determine whether an energy emergency is imminent on the basis of information available to the energy advisory committee from the Michigan public service commission, other state agencies, federal agencies, and other sources of information including computer information systems.

History: 1982, Act 191, Imd. Eff. June 23, 1982;—Am. 1990, Act 229, Imd. Eff. Oct. 8, 1990.

Compiler's note: For transfer of powers of the Director of the Energy Administration associated with the Director's designation as a member of the Energy Advisory Committee to the chairperson of Public Service Commission, see E.R.O. No. 1986-4, compiled at MCL 460.901 of the Michigan Compiled Laws.

For transfer of energy advisory committee, and its abolishment, see E.R.O. No. 2008-4, compiled at MCL 445.2025.

10.83 State of energy emergency; declaration, continuation, extension, and termination.

Sec. 3. (1) The governor may declare, by executive order or proclamation, a state of energy emergency upon notification of an impending energy emergency by the energy advisory committee under section 2(2), or upon the governor's own initiative if the governor finds that an energy emergency exists or is imminent.

(2) Except as provided in subsections (3) and (4), the state of an energy emergency declared by the governor pursuant to subsection (1) shall continue until the governor finds that the energy emergency no longer exists, or until the state of energy emergency has been in effect for 90 days, whichever period is shorter.

(3) After a state of energy emergency has been in effect for 90 days, the legislature may approve an extension of the state of energy emergency for a specific number of days by a concurrent resolution adopted by a record roll call vote by a majority of the members elected to and serving in each house of the legislature. If the legislature does not act to extend the state of energy emergency pursuant to this subsection, the state of energy emergency is terminated.

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(4) The legislature may terminate a state of energy emergency at any time after the governor declares a state of energy emergency, by a concurrent resolution adopted by a record roll call vote by a majority of the members elected to and serving in each house of the legislature.

History: 1982, Act 191, Imd. Eff. June 23, 1982.

10.84 Powers of governor during energy emergency.

Sec. 4. During an energy emergency, the governor may do all of the following:

(a) Order specific restrictions on the use and sale of energy resources. Restrictions imposed by the governor under this subdivision may include:

(*i*) Restrictions on the interior temperature of public, commercial, industrial, and school buildings.

(*ii*) Restrictions on the hours and days during which public, commercial, industrial, and school buildings may be open.

(*iii*) Restrictions on the conditions under which energy resources may be sold to consumers.

(*iv*) Restrictions on lighting levels in public, commercial, industrial, and school buildings.

(*v*) Restrictions on the use of display and decorative lighting.

(*vi*) Restrictions on the use of privately owned vehicles or a reduction in speed limits.

(*vii*) Restrictions on the use of public transportation including directions to close a public transportation facility.

(*viii*) Restrictions on the use of pupil transportation programs operated by public schools.

(b) Direct an energy resource supplier to provide an energy resource to a health facility; school; public utility; public transit authority; fire or police station or vehicle; newspaper or television or radio station for the purpose of relaying emergency instructions or other emergency message; food producer, processor, retailer, or wholesaler; and to any other person or facility which provides essential services for the health, safety, and welfare of the residents of this state.

(c) By executive order, suspend a statute or an order or rule of a state agency or a specific provision of a statute, rule, or order, if strict compliance with the statute, rule, or order or a specific provision of the statute, rule, or order will prevent, hinder, or delay necessary action in coping with the energy emergency. The governor may not suspend a criminal process or procedure or a statute or rule governing the operation of the legislature. At the time of the suspension of a statute, rule, or order or a specific provision of a statute, rule, or order, the governor shall state the extent of the energy shortage and shall specify the provisions of a statute, rule, or order which are suspended, the length of time for which the provisions are suspended, and the degree to which the provisions are suspended. A suspended statute, rule, or order shall be directly related to an energy emergency.

History: 1982, Act 191, Imd. Eff. June 23, 1982.

10.85 Executive order, proclamation, or directive issued by governor; rescission or amendment; duration; continuation for extended period; dissemination; notification of legislature.

Sec. 5. (1) The governor may issue an executive order, proclamation, or directive having the force and effect of law to implement this act. The governor may rescind or amend an executive order, proclamation, or directive.

(2) An executive order, proclamation, or directive issued under this act shall be effective for the duration of a state of energy emergency as provided in section 3(2). If the legislature approves an extension of a state of energy emergency pursuant to section 3(3), an executive order, proclamation, or directive shall continue in effect for the extended period unless by a concurrent resolution adopted by a record roll call vote by a majority of the members elected to and serving in each house of the legislature disapproves the executive order, proclamation, or directive, or unless the executive order, proclamation, or directive is rescinded by the governor pursuant to subsection (1).

(3) An executive order, proclamation, or directive issued under this act shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be filed promptly with the secretary of state and the department of state police.

(4) The governor shall notify the legislature promptly of an executive order, proclamation, or directive issued under this act.

History: 1982, Act 191, Imd. Eff. June 23, 1982.

10.86 Violation of act, order, proclamation, or directive as misdemeanor; penalty; separate offense; action by attorney general or prosecuting attorney.

Sec. 6. (1) A person who knowingly violates this act or an order, proclamation, or directive issued by the

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governor under this act, is guilty of a misdemeanor punishable by a fine of not more than $500.00. Each day a violation continues is a separate offense.

(2) The attorney general or a prosecuting attorney of a county may bring an action in a court of competent jurisdiction to prevent a violation of this act or of an executive order, proclamation, or directive issued pursuant to this act, or to compel a person to perform a duty imposed on the person under this act or an executive order, proclamation, or directive issued under this act.

History: 1982, Act 191, Imd. Eff. June 23, 1982.

10.87 Powers of governor not limited, modified, or abridged by act.

Sec. 7. This act shall not limit, modify, or abridge the authority of the governor to proclaim a state of disaster pursuant to the emergency preparedness act, Act No. 390 of the Public Acts of 1976, being sections 30.401 to 30.420 of the Michigan Compiled Laws, or to exercise any other powers vested in the governor by the state constitution of 1963, state statutes, or the common law of the state.

History: 1982, Act 191, Imd. Eff. June 23, 1982.

10.88 Repealed. 1983, Act 152, Imd. Eff. July 18, 1983.

Compiler's note: The repealed section pertained to the applicability of sections 1 to 7 after June 1, 1983.

10.89 Repeal of MCL 10.41 to 10.48.

Sec. 9. Act No. 38 of the Public Acts of 1979, as amended, being sections 10.41 to 10.48 of the Compiled Laws of 1970, is repealed.

History: 1982, Act 191, Imd. Eff. June 23, 1982.

EXECUTIVE RESIDENCE
Act 241 of 1955

10.101,10.102 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1970-2

10.111 Repealed 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed section pertained to establishing the management sciences group.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1972-3

10.112 Repealed 1984, Act 431, Eff. Mar. 29, 1985.

Compiler's note: The repealed section pertained to establishment of state data processing centers.

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ADULTERATED PRODUCTS
Act 279 of 1988

AN ACT authorizing the governor to proclaim a state of emergency under certain circumstances; to prescribe the powers and duties of certain state and local agencies and officers in relation to the state of emergency; and to prescribe penalties.

History: 1988, Act 279, Imd. Eff. July 27, 1988.

The People of the State of Michigan enact:

10.121 Definitions.

Sec. 1. As used in this act:

(a) "Adulterated" means adulterated as determined under the Michigan food law of 1968, Act No. 39 of the Public Acts of 1968, being sections 289.701 to 289.727 of the Michigan Compiled Laws.

(b) "Consumer product" means any food or beverage that is consumed by humans and any medicine including a prescription drug that is consumed or used by humans.

(c) "Retailer" means a place of business that offers consumer products for sale to the general public.

History: 1988, Act 279, Imd. Eff. July 27, 1988.

10.122 Declaration of public health state of emergency; condition; order; request; enforcement.

Sec. 2. (1) Subject to subsection (3), if the governor has a reasonable basis to believe that a consumer product has been adulterated and presents a threat to public safety and health, the governor may declare a public health state of emergency and order any of the following with regard to that consumer product:

(a) The removal of the consumer product from public display in all retail establishments.

(b) That the consumer product shall not be sold or offered for sale during the public health state of emergency.

(c) That any retailer possessing the consumer product shall segregate and hold the consumer product or a portion of the consumer product for disposition by designated law enforcement officials or officials of the department of agriculture or the department of public health.

(d) Any other limitations, controls, or prohibitions considered necessary by the governor regarding the manufacture, importation, sale, or transportation of the consumer product.

(2) Any order issued under subsection (1) may be amended or rescinded at any time by the governor.

(3) If the consumer product is under the authority of the department of agriculture pursuant to the Michigan food law of 1968, Act No. 39 of the Public Acts of 1968, being sections 289.701 to 289.727 of the Michigan Compiled Laws, or under the authority of the department of public health pursuant to the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, the governor shall not declare a public health state of emergency unless requested to do so by the department that regulates the consumer product. If the governor grants the request, the requesting department shall enforce the provisions of this act.

History: 1988, Act 279, Imd. Eff. July 27, 1988.

10.123 Liability for removal or costs related to removal.

Sec. 3. The state shall not be liable for removal or costs related to the removal of consumer products from public display under section 2(1)(a).

History: 1988, Act 279, Imd. Eff. July 27, 1988.

10.124 Liability for damages or loss.

Sec. 4. The state or an agent of the state acting pursuant to a public health state of emergency declared under this act shall not be liable for any damages or loss incurred because of any action taken pursuant to an order issued under section 2.

History: 1988, Act 279, Imd. Eff. July 27, 1988.

10.125 Duration of public health state of emergency; renewal; amendment to order.

Sec. 5. A public health state of emergency declared under this act shall exist for not more than 60 days and shall be renewable by the governor for an additional 30 days, at which time the public health state of emergency shall end, unless renewed by concurrent resolution passed by both houses of the legislature. An amendment to an order of public health state of emergency shall not be considered a new order.

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History: 1988, Act 279, Imd. Eff. July 27, 1988.

10.126 Dissemination of order or amended order; filing of order; notice to legislature.

Sec. 6. (1) An order or amended order issued under this act shall be disseminated by the governor promptly by means calculated to bring its contents to the attention of the general public and shall be filed promptly with the secretary of state and the departments of state police, public health, and agriculture.

(2) The governor shall notify the legislature promptly of an order, amended order, or rescinded order issued under this act.

History: 1988, Act 279, Imd. Eff. July 27, 1988.

10.127 Violation as misdemeanor; penalty; separate offenses; court action.

Sec. 7. (1) A person who knowingly violates this act or an order issued by the governor under this act is guilty of a misdemeanor punishable by a fine of not more than $500.00. Each day a violation continues is a separate offense.

(2) The attorney general, at the direction of the governor or upon receipt of a request from the department of agriculture or the department of public health, or a prosecuting attorney of a county may bring an action in a court of competent jurisdiction to prevent a violation of this act or an order issued pursuant to this act, or to compel a person to perform a duty imposed on the person under this act or an order issued under this act.

History: 1988, Act 279, Imd. Eff. July 27, 1988.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1995-5

10.151 Creation of office of regulatory reform within the executive office of the governor; transfer of attorney general's duties under MCL 24.245 to office of regulatory reform.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of Government; and

WHEREAS, the people of the State of Michigan deserve a regulatory process that is efficient, effective, understandable and responsive to individual needs; and

WHEREAS, the regulatory process should be accessible and open to the public; and

WHEREAS, the regulatory process should respect the rights and legitimate concerns of the public and should not impose costs on society that do not justify the benefits of regulation; and

WHEREAS, the regulatory process requires enhanced planning and coordination from within the Executive Branch of Government; and

WHEREAS, existing state regulations contain duplicative, obsolete and unnecessarily burdensome requirements on Michigan's citizens and businesses; and

WHEREAS, rules are now adopted without a thorough examination and systematic analysis of their direct and indirect costs and the social and economic benefits gained through regulation; and

WHEREAS, state regulation needs to retain sufficient flexibility to take into account unique impacts, to improve the state's economy and to protect its citizens without imposing unacceptable or unreasonable costs.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. The terms "agency" and "rule" shall have the meanings ascribed to them in the Administrative Procedures Act, Act No. 306 of 1969, as amended, being Michigan Compiled Laws Section 24.201 et seq.

2. The Office of Regulatory Reform is created within the Executive Office of the Governor.

3. The Office of Regulatory Reform shall review proposed rules, coordinate the processing of rules by state agencies and work with the agencies to streamline the rulemaking process and to improve public access.

4. Agencies shall process rules only when the rules are required by law, are necessary to interpret or enforce the law, are necessary to rescind or amend obsolete or superseded rules, or are necessary due to compelling public need. Agencies shall file a Request for Rulemaking with the Office of Regulatory Reform prior to initiating the processing of any rule. The Request for Rulemaking shall include:

a. the state or federal statutory or regulatory basis for the rule; and

b. the problem the rule intends to address as well as an assessment of the significance of that problem.

5. Upon review of the Request for Rulemaking the Office of Regulatory Reform may seek additional information concerning the proposed rule including, but not limited to, the following:

a. whether existing state laws or regulations have contributed to the problem and whether those laws or regulations should be modified to achieve the intended goal of the rule more effectively; and

b. an analysis of the alternatives available to direct regulation including, but not limited to, economic incentives, rule rescission, or not regulating.

6. Each agency shall provide for public participation in the rulemaking process. Upon issuing a Request for Rulemaking each agency should, when appropriate, seek the involvement in the rulemaking process of those who are intended to benefit from and those expected to be burdened by any rule, including local officials.

7. When the Office of Regulatory Reform determines that a rule is necessary the agency shall design the rule to achieve the regulatory objective in the most cost-effective manner allowed by law. Except for emergency rules and rules seeking to rescind or amend obsolete or superseded rules, the agency shall assess the costs and benefits of the proposed rule, as required by Section 45(2) of the Administrative Procedures Act, being Michigan Compiled Laws Section 24.245(2), and such other requirements as the Office of Regulatory Reform may impose. The Office of Regulatory Reform shall provide the methodology for agencies to conduct a comprehensive analysis of the direct and indirect costs and benefits, both social and economic, of proposed rules. This cost-benefit analysis shall include a review of all viable alternatives to regulation including non-regulatory, market-based solutions. In addition, rules should seek to impose the least onerous burden on Michigan's citizens and businesses allowed by law.

8. The Office of Regulatory Reform shall strive to ensure that rules do not expand state power or

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jurisdiction beyond the level of regulatory action needed to satisfy statutory requirements.

9. Each agency shall avoid rules that are inconsistent, incompatible or duplicative with its other rules or those of other agencies. Each agency shall draft its rules to be simple and easy to understand and shall seek to minimize uncertainty and litigation arising from such uncertainty.

10. No later than June 1, 1995, and on June 1 of each successive year, each agency shall submit to the Office of Regulatory Reform a Regulatory Plan, which shall include, at minimum, each rule that the agency reasonably expects to begin processing during the following 12-month period. The agency head shall personally approve the agency's Plan. The Office of Regulatory Reform shall determine such other contents of the Plan that it deems necessary.

11. Within 30 days of the date of this Order, each agency head shall designate a Regulatory Affairs Officer who shall be responsible for coordinating the agency's rulemaking responsibilities and who shall serve as the liaison between the agency and the Office of Regulatory Reform.

12. In order to reduce the regulatory burden on the citizens of Michigan and to determine whether rules now in existence remain justified and necessary under changed circumstances, and to determine whether rules are duplicative or unnecessarily burdensome, within 90 days of the date of this Order each agency shall submit to the Office of Regulatory Reform a program to review annually its existing rules to determine whether any should be modified or eliminated. Any rules that the agency identifies pursuant to its review program as duplicative, unnecessarily burdensome or no longer necessary shall be included in the agency's annual Regulatory Plan. The agency shall pursue the repeal or amendment of such rules. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose rules that the agency believes are either unnecessary or outdated by reason of changed circumstances and shall include those in the agency's annual Regulatory Plan.

13. To effectuate the goal of reducing outdated regulations, the Office of Regulatory Reform shall identify proposed regulations that seek to rescind or amend a rule that is obsolete or superseded and shall make recommendations to the Legislative Service Bureau that a statement to that effect be included in the bureau's certificate of approval pursuant to Section 44(1) of the Administrative Procedures Act, being Michigan Compiled Laws Section 24.244(1).

14. Members of the public may request the Office of Regulatory Reform to review existing rules that they consider duplicative, unnecessarily burdensome or no longer necessary.

15. In order to permit the Department of Attorney General to continue to respond to the increasing volume of litigation and administrative proceedings involving the State of Michigan, the duties of the Attorney General set forth in Section 45 of the Administrative Procedures Act, Act No. 306 of 1969, being Section 24.245 of the Michigan Compiled Laws, are hereby assigned to the Office of Regulatory Reform. The Office of Regulatory Reform shall consult with the Department of Attorney General regarding any proposed rule that the Office of Regulatory Reform finds presents a legal or constitutional issue.

16. All of the powers, duties, functions, and responsibilities assigned to agencies under the Administrative Procedures Act to promulgate a rule by filing it with the Secretary of State, contained in subsections 46(1) and 46(4) of the Administrative Procedures Act, being Sections 24.246(1) and 24.246(4) of the Michigan Compiled Laws, are hereby assigned to the Office of Regulatory Reform.

17. All departments, boards, commissions, or officers of the state shall give to the Office of Regulatory Reform, or to any representative thereof, any necessary assistance required by the Office of Regulatory Reform, or any representative thereof, in the performance of the duties of the Office of Regulatory Reform so far as is compatible with its, his, or her duties; free access shall also be given to any books, records, or documents in its, his, or her custody, relating to matters within the scope of the inquiry, study, or investigation of the Office of Regulatory Reform.

18. The invalidity of any portion of this Executive Order shall not affect the validity of the remainder thereof.

This Executive Order shall become effective June 1, 1995.

History: 1995, E.R.O. No. 1995-5, Eff. June 1, 1995.

Compiler's note: For transfer of powers and duties of the office of regulatory reform from the department of management and budget to the office of regulatory reform, see E.R.O. No. 2000-1, compiled at MCL 10.152 of the Michigan compiled laws.

For transfer of powers and duties of office of regulatory reform from the executive office of the governor to the department of management and budget, see E.R.O. No. 2002-7, compiled at MCL 10.153 of the Michigan Compiled Laws.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2000-1

10.152 Transfer of powers and duties of the office of regulatory reform to the executive office of the governor by a type I transfer.

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization or in the assignment of functions among its units that he considers necessary for efficient administration; and

WHEREAS, the Office of Regulatory Reform was created in the Executive Office by Executive Order 1995-6 to review proposed rules, coordinate the processing of rules by state departments, and work with departments to streamline the rulemaking process; and

WHEREAS, Act No. 262 of the Public Acts of 1999, amended the Administrative Procedures Act of 1969, being Sections 24.201 et seq. of the Michigan Compiled Laws, in part, by adding Section 34, being Section 24.234 of the Michigan Compiled Laws, which codified the authority of the Office of Regulatory Reform as a Type I agency within the Department of Management and Budget; and

WHEREAS, pursuant to Act No. 262 of the Public Acts of 1999, the effective date of the creation of the Office of Regulatory Reform in the Department of Management and Budget will be April 1, 2000; and

WHEREAS, the Office of Regulatory Reform, both under Executive Order 1995-6 and Act No. 262 of the Public Acts of 1999, will review and process rules from all state departments; and

WHEREAS, the Office of Regulatory Reform's coordination and rule review functions must be performed independently of departments seeking to promulgate rules; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan do hereby order the following:

All the authority, powers, duties, functions, grants and responsibilities of the Office of Regulatory Reform provided for in Act No. 306 of the Public Acts of 1969, as amended by Act No. 262 of the Public Acts of 1999, being Sections 24.201 of the Michigan Compiled Laws, and Executive Order 1995-6, are hereby transferred to the Executive Office of the Governor by a Type I transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

The Director of the Office of Regulatory Reform shall provide executive direction and supervision for the implementation of the transfer.

The Director of the Office of Regulatory Reform shall administer the transferred powers, duties, functions and responsibilities in such ways as to promote effective administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of the responsibilities prescribed by this Order.

The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of this fiscal year.

All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Office of Regulatory Reform for the activities, powers, duties, functions and responsibilities transferred by this Order are hereby transferred to the Director of the Office of Regulatory Reform.

All rules, orders, contracts and agreements related to the assigned functions that were lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall take effect April 1, 2000.

History: 2000, E.R.O. No. 2000-1, Eff. Apr. 1, 2000.

Compiler's note: For transfer of powers and duties of office of regulatory reform from the executive office of the governor to the department of management and budget, see E.R.O. No. 2002-7, compiled at MCL 10.153 of the Michigan Compiled Laws.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2002-7

10.153 Transfer of powers and duties of office of regulatory reform from the executive office of the governor to the department of management and budget by type I transfer.

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Office of Regulatory Reform was created in the Executive Office of the Governor by Executive Order 1995-6, being Section 10.151 of the Michigan Compiled Laws, to review proposed rules, coordinate the processing of rules by state agencies, and work with agencies to streamline the rulemaking process and to improve public access; and

WHEREAS, Section 34 of Act No. 262 of the Public Acts of 1999, being Section 24.234 of the Michigan Compiled Laws, codified the authority of the Office of Regulatory Reform as a Type I agency within the Department of Management and Budget, the principal department created by Section 121 of Act No. 431 of the Public Acts of 1984, being Section 18.1121 of the Michigan Compiled Laws; and

WHEREAS, all of the authority, powers, duties, functions, grants and responsibilities of the Office of Regulatory Reform provided for in Act No. 306 of the Public Acts of 1969, as amended, being Section 24.201 et seq. of the Michigan Compiled Laws, and in Executive Order 1995-6, being Section 10.151 of the Michigan Compiled Laws, were transferred to the Executive Office of the Governor by Executive Order 2000-1, being Section 10.152 of the Michigan Compiled Laws; and

WHEREAS, the Office of Regulatory Reform has established procedures to review proposed rules, coordinate the processing of rules by state agencies and work with the agencies to streamline the rulemaking process and to improve public access; and

WHEREAS, it is organizationally sound and appropriate to continue to concentrate the review and legal certification of rules and regulations in one office.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan do hereby order the following:

I. TRANSFER

All the authority, powers, duties, functions, grants and responsibilities of the Office of Regulatory Reform provided for in Act No. 306 of the Public Acts of 1969, as amended, being Section 24.201 et seq. of the Michigan Compiled Laws, and in Executive Order 1995-6, being Section 10.151 of the Michigan Compiled Laws, and in Executive Order 2000-1, being Section 10.152 of the Michigan Compiled Laws are hereby transferred by Type I transfer, as defined in Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws, to the Department of Management and Budget. The Office of Regulatory Reform shall exercise its prescribed statutory powers, duties and functions independently of the head of the department.

II. MISCELLANEOUS

A. The Director of the Office of Regulatory Reform shall provide executive direction and supervision for the implementation of all transfers of authority made under this Order.

B. The Director of the Office of Regulatory Reform shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The Director of the Department of Management and Budget shall immediately initiate coordination with the Executive Office of the Governor to facilitate the transfers and develop memoranda of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved related to the authority to be transferred.

D. All records, personnel, property, grants and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Office of Regulatory Reform located within the Executive Office of the Governor for the activities, powers, duties, functions and responsibilities transferred to the Office of Regulatory Reform located within the Department of Management and Budget are hereby transferred to the Office of Regulatory Reform located within the Department of Management and Budget.

E. The Director of the Office of Regulatory Reform may, by written instrument, delegate a duty or power conferred by this Order, and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director of the

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Office of Regulatory Reform.

F. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year.

G. All rules, orders, contracts, grants and agreements relating to the functions transferred to the Office of Regulatory Reform located within the Department of Management and Budget by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended or rescinded.

H. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.

I. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

History: 2002, E.R.O. No. 2002-7, Eff. Sept. 1, 2002.

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