

1 SENATE BILL 276

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC AFFAIRS; CREATING REGIONAL VOLUNTEER
12 RESPONSE TEAMS TO ASSIST WITH HAZARDOUS MATERIALS ACCIDENT
13 RESPONSE; DECLARING AN EMERGENCY.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 12-12-19 NMSA 1978 (being Laws 1983,
17 Chapter 80, Section 3, as amended) is amended to read:

18 "12-12-19. DEFINITIONS.--As used in the Hazardous
19 Materials Emergency Response Act:

20 A. "accident" means an event involving hazardous
21 materials that may cause injury to persons or damage to
22 property or release hazardous materials to the environment;

23 B. "administrator" means the hazardous materials
24 emergency response administrator;

25 C. "board" means the hazardous materials safety

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1 board;

2 D. "chief" means the chief of the New Mexico state
3 police;

4 E. "commission" means the state emergency response
5 commission;

6 F. "department" means the homeland security and
7 emergency management department;

8 G. "emergency management" means the ability to
9 prepare for, respond to, mitigate, recover and restore the
10 scene of an institutional, industrial, transportation or other
11 accident;

12 H. "first responder" means the first law
13 enforcement officer or other public service provider with a
14 radio-equipped vehicle to arrive at the scene of an accident;

15 I. "hazardous materials" means hazardous
16 substances, radioactive materials or a combination of hazardous
17 substances and radioactive materials;

18 J. "hazardous substances" means flammable solids,
19 semisolids, liquids or gases; poisons; corrosives; explosives;
20 compressed gases; reactive or toxic chemicals; irritants; viral
21 diseases, such as the coronavirus disease 2019; or biological
22 agents, but does not include radioactive materials;

23 K. "orphan hazardous materials" means hazardous
24 substances, radioactive materials, a combination of hazardous
25 substances and radioactive materials or substances used in the

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1 manufacture of controlled substances in violation of the
2 Controlled Substances Act where an owner of the substances or
3 materials cannot be identified;

4 L. "plan" means the statewide hazardous materials
5 emergency response plan;

6 M. "radioactive materials" means any material or
7 combination of materials that spontaneously emits ionizing
8 radiation. Materials in which the estimated specific activity
9 is not greater than 0.002 microcuries per gram of material are
10 not considered to be radioactive materials unless determined to
11 be so by the hazardous and radioactive materials bureau of the
12 water and waste management division of the department of
13 environment for purposes of emergency response pursuant to the
14 Hazardous Materials Emergency Response Act;

15 N. "responsible state agency" means an agency
16 designated in Subsection D of Section 12-12-21 NMSA 1978 with
17 responsibility for managing a certain type of accident or
18 performing certain functions at the scene of such accident; and

19 O. "secretary" or "state director" means the state
20 director of homeland security and emergency management."

21 SECTION 2. Section 12-12-20 NMSA 1978 (being Laws 1983,
22 Chapter 80, Section 4, as amended) is amended to read:

23 "12-12-20. STATE RESPONSIBILITY FOR MANAGEMENT OF
24 ACCIDENTS--IMMUNITY FROM LIABILITY--COOPERATIVE AGREEMENTS--
25 PRIVATE PROPERTY.--

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1 A. The state director shall have final authority to
2 administer the provisions of the Hazardous Materials Emergency
3 Response Act.

4 B. As between state and local governments, the
5 state government has the primary responsibility for the
6 management of an accident, and the local government in whose
7 jurisdiction the accident occurs shall assist the state in its
8 management of the accident.

9 C. Nothing in the Hazardous Materials Emergency
10 Response Act shall be construed as a waiver or alteration of
11 the immunity from liability granted under the Tort Claims Act
12 or as a waiver of any other immunity or privilege under law.

13 D. The state, through the state director or state
14 director's designee, may enter into cooperative agreements with
15 county and municipal governments for the management of
16 accidents based on the severity of the accident and the
17 resources of the local government. The plan shall set forth
18 the criteria for determining when an accident may be managed by
19 the local government in whose jurisdiction the accident
20 occurred.

21 E. The state director shall support emergency
22 response capabilities by assisting local and state responders
23 in the acquisition of equipment, training and hazardous
24 materials information.

25 F. The state, through the state director or state

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1 director's designee, may enter into cooperative agreements with
2 the federal government, Indian tribes and pueblos and bordering
3 states for assistance in the management of accidents.

4 G. Whenever an accident appears imminent or has
5 occurred, employees or authorized persons of responsible state
6 agencies as defined in Section 12-12-21 NMSA 1978 are
7 authorized to enter upon any premises for the purpose of
8 determining whether it is necessary for emergency management
9 procedures to be implemented. The state on-scene coordinator
10 or a responsible state agency may take full control and custody
11 of the premises for the purpose of managing the accident. A
12 regional volunteer response team consisting of state employees
13 may also assist state and local governments in accident
14 response, at the discretion of the state director."

15 SECTION 3. Section 12-12-24 NMSA 1978 (being Laws 1983,
16 Chapter 80, Section 7) is amended to read:

17 "12-12-24. TRAINING OFFICERS.--Each responsible state
18 agency shall designate one person who is knowledgeable in the
19 area of [~~hazardous materials~~] accident response, as it applies
20 to the functions of that agency, to be its training officer.
21 It is the duty of the training officer to teach the appropriate
22 personnel within the agency the proper methods of discharging
23 the agency's responsibilities in responding to [~~hazardous~~
24 ~~materials~~] accidents. The training officer is also responsible
25 for providing cross-training to personnel of other responsible

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1 state agencies and other persons as may be required by the
2 hazardous materials safety board. The training officer shall
3 assist in training volunteers and coordinating with other state
4 agencies and local governments to establish regional volunteer
5 response teams statewide. A regional volunteer response team
6 shall consist of state employees and shall assist state and
7 local governments in accident response, including responses to
8 the coronavirus disease 2019 statewide."

9 SECTION 4. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect immediately.