

1 AN ACT relating to emergencies and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 39A.090 is amended to read as follows:

4 (1) The Governor may make, amend, and rescind any executive actions as deemed
5 necessary to carry out the provisions of KRS Chapters 39A to 39F.

6 (2) (a) Executive orders, administrative regulations, or other directives issued under
7 this chapter by the Governor shall be in effect no longer than ***two hundred***
8 ***seventy (270)***~~[thirty (30)]~~ days unless an extension, modification, or
9 termination is approved by the General Assembly prior to the extension of any
10 executive order or directive that:

11 1. Places restrictions on the in-person meeting or places restrictions on the
12 functioning of the following:

13 a. Elementary, secondary, or postsecondary educational institutions;

14 b. Private businesses or nonprofit organizations;

15 c. Political, religious, or social gatherings;

16 d. Places of worship; or

17 e. Local governments; or

18 2. Imposes mandatory quarantine or isolation requirements.

19 (b) All other executive orders, administrative regulations, or directives that are
20 not described in paragraph (a) of this subsection may exceed ***two hundred***
21 ***seventy (270) days***~~[thirty (30) days if requested by a chief executive officer or~~
22 ~~a legislative body of a local government only for that local government and~~
23 ~~only for the period of time requested by the chief executive officer or a~~
24 ~~legislative body. The chief executive officer or a legislative body may make a~~
25 ~~written request for extensions or early termination of the executive order].~~

26 (3) Upon the expiration of an executive order or other directive described in subsection
27 (2)(a) of this section declaring an emergency or other implementation of powers

1 under this chapter, the Governor shall not declare a new emergency or continue to
2 implement any of the powers enumerated in this chapter based upon the same or
3 substantially similar facts and circumstances as the original declaration or
4 implementation without the prior approval of the General Assembly.

5 ~~[(4) The General Assembly, by joint resolution, may terminate a declaration of
6 emergency at any time.]~~

7 ~~(5) The Commonwealth waives immunity for prospective equitable and declaratory
8 relief only, under the Eleventh Amendment to the Constitution of the United States
9 for cases brought against it in federal jurisdictions pursuant to KRS 446.350 during
10 emergencies declared under KRS Chapters 39A to 39F. No award of monetary
11 damages, costs, or attorney fees is waived or authorized under this subsection.]~~

12 ➔Section 2. KRS 39A.100 is amended to read as follows:

13 (1) In the event of the occurrence or threatened or impending occurrence of any of the
14 situations or events enumerated in KRS 39A.010, 39A.020, or 39A.030, the
15 Governor may declare, in writing, that a state of emergency exists. The Governor
16 shall have and may exercise the following emergency powers during the period in
17 which the state of emergency exists:

18 (a) To enforce all laws, and administrative regulations relating to disaster and
19 emergency response and to assume direct operational control of all disaster
20 and emergency response forces and activities in the Commonwealth;

21 (b) To require state agencies and to request local governments, local agencies, and
22 special districts to respond to the emergency or disaster in the manner
23 directed;

24 (c) To seize, take, or condemn property, for the duration of the emergency, and
25 only for public use as defined in KRS 416.675, excluding firearms and
26 ammunition, components of firearms and ammunition, or a combination
27 thereof, for the protection of the public or at the request of the President, the

1 Armed Forces, or the Federal Emergency Management Agency of the United
2 States, including:

- 3 1. All means of transportation and communication;
- 4 2. All stocks of fuel of whatever nature;
- 5 3. Food, clothing, equipment, materials, medicines, and all supplies; and
- 6 4. Facilities, including buildings and plants.

7 Compensation for property seized, taken, or condemned under this paragraph
8 shall be determined using the process in KRS 416.540 to 416.670 to
9 determine value;

10 (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this
11 subsection among the inhabitants of the Commonwealth and to account to the
12 State Treasurer for any funds received for the property;

13 (e) To make compensation for the property seized, taken, or condemned under
14 paragraph (c) of this subsection;

15 (f) To exclude all nonessential, unauthorized, disruptive, or otherwise
16 uncooperative personnel from the scene of the emergency, and to command
17 those persons or groups assembled at the scene to disperse. A person who
18 refuses to leave an area in which a written order of evacuation has been issued
19 in accordance with a written declaration of emergency or a disaster may be
20 forcibly removed to a place of safety or shelter, or may, if this is resisted, be
21 arrested by a peace officer. Forcible removal or arrest shall not be exercised as
22 options until all reasonable efforts for voluntary compliance have been
23 exhausted;

24 (g) To declare curfews and establish their limits;

25 (h) To prohibit or limit the sale or consumption of goods, in the event of a
26 shortage of goods, excluding firearms and ammunition, components of
27 firearms and ammunition, or a combination thereof, or commodities for the

- 1 duration of the emergency;
- 2 (i) To grant emergency authority to pharmacists pursuant to KRS 315.500, for the
3 duration of the emergency;
- 4 (j) To request any assistance from agencies of the United States as necessary and
5 appropriate to meet the needs of the people of the Commonwealth;
- 6 (k) Upon the recommendation of the Secretary of State, to declare by executive
7 order a different time or place for holding elections in an election area for
8 which a state of emergency has been declared for part or all of the election
9 area. The election shall be held within thirty-five (35) days from the date of
10 the suspended or delayed election. The executive order shall remain in effect
11 until the date of the suspended or delayed election regardless of the time
12 limitations in KRS 39A.090 and shall not be changed except by action of the
13 General Assembly. The State Board of Elections shall establish procedures for
14 election officials to follow. Any procedures established under this paragraph
15 shall be subject to the approval of the Secretary of State and the Governor by
16 respective executive orders; and
- 17 (l) Except as prohibited by this section or other law, to perform and exercise
18 other functions, powers, and duties deemed necessary to promote and
19 secure the safety and protection of the civilian population~~[to take action~~
20 ~~necessary to execute those powers enumerated in paragraphs (a) to (k) of this~~
21 ~~subsection].~~
- 22 (2) ~~[Within thirty (30) days of a declared emergency, and every thirty (30) days~~
23 ~~thereafter, the Governor shall report to the General Assembly, if in session, or to the~~
24 ~~Legislative Research Commission if the General Assembly is not in session, on a~~
25 ~~form provided by the Commission detailing:~~
- 26 (a) ~~All expenditures relating to contracts issued during the emergency under KRS~~
27 ~~45A.085 or 45A.095, or under any provision for which a state agency does not~~

1 ~~solicit bids or proposals for a contract; and~~

2 ~~(b) All revenues received from the federal government in response to the declared~~
3 ~~emergency, any expenditures or expenditure plan for the federal funds by~~
4 ~~federal program, the state agency or program that was allocated the federal~~
5 ~~funds, and any state fund expenditures required to match the federal funds.~~

6 ~~(3)~~ In the event of the occurrence or threatened or impending occurrence of any of the
7 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in
8 the judgment of a local chief executive officer is of such severity or complexity as
9 to require the exercise of extraordinary emergency measures, the county
10 judge/executive of a county other than an urban-county government, or mayor of a
11 city or urban-county government, or chief executive of other local governments or
12 their designees as provided by ordinance of the affected county, city, or urban-
13 county may declare in writing that a state of emergency exists, and thereafter,
14 subject to any orders of the Governor, shall have and may exercise for the period as
15 the state of emergency exists or continues, the following emergency powers:

16 (a) To enforce all laws and administrative regulations relating to disaster and
17 emergency response and to direct all local disaster and emergency response
18 forces and operations in the affected county, city, urban-county, or charter
19 county;

20 (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative
21 personnel from the scene of the emergency, and to command persons or
22 groups of persons at the scene to disperse. A person who refuses to leave an
23 area in which a written order of evacuation has been issued in accordance with
24 a written declaration of emergency or a disaster may be forcibly removed to a
25 place of safety or shelter, or may, if this is resisted, be arrested by a peace
26 officer. Forcible removal or arrest shall not be exercised as options until all
27 reasonable efforts for voluntary compliance have been exhausted;

- 1 (c) To declare curfews and establish their limits;
- 2 (d) To order immediate purchase or rental of, contract for, or otherwise procure,
3 without regard to procurement codes or budget requirements, the goods and
4 services essential for protection of public health and safety or to maintain or to
5 restore essential public services; and
- 6 (e) To request emergency assistance from any local government or special district
7 and, through the Governor, to request emergency assistance from any state
8 agency and to initiate requests for federal assistance as are necessary for
9 protection of public health and safety or for continuation of essential public
10 services.

11 ~~(3)~~~~(4)~~ Nothing in this section shall be construed to allow any governmental entity to
12 restrict the free exercise of religion, to abridge the freedom of speech or the press,
13 or to abridge the right to peaceably assemble or petition the government for a
14 redress of grievances~~[impose additional restrictions on:~~

- 15 ~~(a) The lawful possession, transfer, sale, transport, carrying, storage, display, or~~
16 ~~use of firearms and ammunition or components of firearms and ammunition;~~
- 17 ~~(b) The right of the people to exercise free speech, freedom of the press, to~~
18 ~~petition their government for redress of injuries, or to peaceably assemble; or~~
- 19 ~~(c) The right of the people to worship, worship in person, or to act or refuse to act~~
20 ~~in a manner motivated by a sincerely held religious belief.~~

21 ~~(5) Nothing in this section shall be construed to allow any governmental entity to~~
22 ~~impose restrictions on the right of the people to:~~

- 23 ~~(a) Peaceably assemble; or~~
- 24 ~~(b) Worship, worship in person, or to act or refuse to act in a manner motivated~~
25 ~~by a sincerely held religious belief].~~

26 ➔ Section 3. KRS 39A.180 is amended to read as follows:

- 27 (1) The political subdivisions of the state and other agencies designated or appointed by

1 the Governor may make, amend, and rescind orders and promulgate administrative
 2 regulations necessary for disaster and emergency response purposes, and to
 3 supplement the carrying out of the provisions of this chapter, if not inconsistent
 4 with any orders or administrative regulations promulgated by the Governor or by
 5 any state agency exercising a power delegated to it by the Governor.

6 (2) (a) All written orders and administrative regulations promulgated by the
 7 Governor, the director, or by any political subdivision or other agency
 8 authorized by KRS Chapters 39A to 39F to make orders and promulgate
 9 administrative regulations, shall have the full force of law and, if promulgated
 10 as administrative regulations, shall follow the requirements for promulgating
 11 administrative regulations under KRS Chapter 13A. All written orders
 12 authorized by KRS Chapters 39A to 39F shall be filed with the Legislative
 13 Research Commission. All existing laws, ordinances, and administrative
 14 regulations inconsistent with KRS Chapters 39A to 39F, or any order or
 15 administrative regulation issued under the authority of KRS Chapters 39A
 16 to 39F, shall be suspended during the period of time and to the extent that
 17 the conflict exists.

18 (b) ~~{The Governor may suspend a statute by executive order when an emergency~~
 19 ~~is declared under this chapter if:~~

20 1. ~~The statute is specifically enumerated by the Governor in the executive~~
 21 ~~order; and~~

22 2. ~~The executive order specifying the suspension is approved by the~~
 23 ~~Attorney General in writing.~~

24 (e) ~~}A statute suspension authorized in paragraph (a){(b)}~~ of this subsection shall
 25 only be in effect while the emergency executive order is in effect.

26 ~~{(d) Any existing administrative regulation that conflicts with a written order~~
 27 ~~issued under this chapter shall be amended, withdrawn, or repealed in~~

1 ~~accordance with KRS Chapter 13A to conform with the written order.~~

2 ~~(e) When a written order ends, any administrative regulation promulgated under~~
 3 ~~the authority of this section shall:~~

4 1. ~~Become void; and~~

5 2. ~~Be withdrawn, amended, or repealed in accordance with KRS Chapter~~
 6 ~~13A.]~~

7 (3) Notwithstanding subsection (2) of this section, the Governor shall not suspend any
 8 laws in KRS Chapters 39A to 39F, Chapter 13A, 446.350, 527.020, 311.710 to
 9 311.820, or any other statutes related to abortion.

10 (4) The law enforcement authorities of the state and of its counties, urban-counties,
 11 charter counties, and cities shall enforce the written orders and administrative
 12 regulations issued pursuant to KRS Chapters 39A to 39F.

13 ➔Section 4. KRS 214.020 is amended to read as follows:

14 (1) When the Cabinet for Health and Family Services determines that an infectious or
 15 contagious disease will invade this state, it shall take necessary action and
 16 promulgate administrative regulations under KRS Chapter 13A to prevent the
 17 introduction or spread of such infectious or contagious disease or diseases within
 18 this state.

19 (2) Any administrative regulation promulgated under the authority of this section shall:

20 (a) ~~[Be in effect no longer than thirty (30) days if the administrative regulation:~~

21 1. ~~Places restrictions on the in-person meeting or functioning of the~~
 22 ~~following:~~

23 a. ~~Elementary, secondary, or postsecondary educational institutions;~~

24 b. ~~Private businesses or non-profit organizations;~~

25 c. ~~Political, religious, or social gatherings;~~

26 d. ~~Places of worship; or~~

27 e. ~~Local governments; or~~

- 1 2. — ~~Imposes mandatory quarantine or isolation requirements;~~
- 2 **(b)** — Include the penalty, appeal, and due process rights for violations of the
- 3 administrative regulation; and
- 4 **(b)**~~(c)~~ Contain the public hearing and written comment period notice required
- 5 by KRS 13A.270.