

1           AN ACT relating to animal health emergencies.

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

3           ➔Section 1. KRS 39A.020 is amended to read as follows:

4           As used in KRS Chapters 39A to 39F, unless the context requires otherwise:

5    (1) "Adjutant General" means the executive head of the Department of Military Affairs  
6           vested with general direction and control authority for the department and the  
7           division of emergency management;

8    (2) *"Animal health emergency" means an incident or situation which poses a major*  
9           *threat to the safety or health of livestock as defined in KRS 246.010, poultry as*  
10           *defined in KRS 246.010, or other domesticated animal so as to cause or threaten*  
11           *to cause the spread of disease, starvation, deadly injury, or other potential loss of*  
12           *life;*

13    (3) "Catastrophe" means a disaster or series of concurrent disasters which adversely  
14           affect the entire Commonwealth of Kentucky or a major geographical portion  
15           thereof;

16    (4){(3)} "Chief executive officer" means a:

- 17           (a) County judge/executive of a county;
- 18           (b) Mayor of a consolidated local government;
- 19           (c) Mayor of an urban-county government;
- 20           (d) Chief executive officer of a charter county government;
- 21           (e) Chief executive officer of a unified local government; or
- 22           (f) Mayor of a city;

23    (5){(4)} "Comprehensive emergency management program" means the public safety  
24           program developed, organized, implemented, administered, maintained, and  
25           coordinated by the Division of Emergency Management and local emergency  
26           management agencies created pursuant to the provisions of KRS Chapters 39A to  
27           39F, to assess, mitigate, prepare for, respond to, or recover from, an emergency,

1 declared emergency, disaster, or catastrophe, or threat of any of those, as  
2 contemplated in KRS 39A.010 or as defined in this section;

3 **(6)** "Coordination" means having and exercising primary state or local executive  
4 branch oversight for the purpose of organizing, planning, and implementing;

5 **(7)** "County" means a county, urban-county government, charter county  
6 government, consolidated local government, or unified local government;

7 **(8)** "Declared emergency" means any incident or situation declared to be an  
8 emergency, disaster, or catastrophe by executive order of the Governor, or a county  
9 judge/executive, or a mayor, or the chief executive of other local governments in  
10 the Commonwealth pursuant to the provisions of KRS Chapters 39A to 39F;

11 **(9)** "Director" means the director of the Division of Emergency Management of  
12 the Department of Military Affairs;

13 **(10)** "Disaster" means any incident or situation declared as such by executive  
14 action of the Governor, or the President of the United States, pursuant to federal  
15 law;

16 **(11)** "Disaster and emergency response" means the performance of all emergency  
17 functions, other than war-related functions for which military forces are primarily  
18 responsible, including but not limited to: direction and control, incident command,  
19 or management; communications; fire protection services; police services; medical  
20 and health services; ambulance services; rescue; search and rescue or recovery;  
21 urban search and rescue; engineering; alerting and warning services; resource  
22 management; public works services; nuclear, chemical, biological, or other  
23 hazardous material or substance monitoring, containment, decontamination,  
24 neutralization, and disposal; emergency worker protection, site safety, site  
25 operations and response planning; evacuation of persons; emergency welfare  
26 services; emergency transportation; physical plant protection; temporary restoration  
27 of public utility services; emergency lighting and power services; emergency public

1 information; incident investigation, hazards analysis, and damage assessment; and  
2 other functions related to effective reaction to a disaster or emergency or  
3 catastrophe, or the potential, threatened, or impending threat of any disaster or  
4 emergency or catastrophe, together with all other activities necessary or incidental  
5 to the preparation for and carrying out of the functions set out in this subsection;

6 (12)~~(11)~~ "Division" means the Division of Emergency Management of the Department  
7 of Military Affairs;

8 (13)~~(12)~~ "Emergency" means any incident or situation which poses a major threat to  
9 public safety so as to cause, or threaten to cause, loss of life, serious injury,  
10 significant damage to property, or major harm to public health or the environment;

11 (14)~~(13)~~ (a) "Executive action" means:

- 12 1. All orders and guidelines related to a COVID-19 declared emergency  
13 issued by the Governor or any state agency, the President of the United  
14 States or any federal agency, or a local governmental agency; and
- 15 2. Industry-specific guidelines related to a COVID-19 declared emergency  
16 adopted by a state agency that govern the industry; and

17 (b) "Executive action":

- 18 1. Does not mean informal or indefinite statements or recommendations  
19 made by government officials; and
- 20 2. Does not create a duty of care;

21 (15)~~(14)~~ "Integrated emergency management system" means the unified and  
22 multidisciplinary disaster and emergency response infrastructure developed in the  
23 Commonwealth, under the coordination of the division, using methods which align  
24 state or local administrative, organizational, and operational resources, to  
25 accomplish the mission, goals, and objectives of the comprehensive emergency  
26 management program of the Commonwealth;

27 (16)~~(15)~~ "Local disaster and emergency services organization" means that organization

1 of public and private entities developed to carry out the multiagency disaster and  
2 emergency response of a city, county, urban-county or charter county pursuant to  
3 KRS Chapters 39A to 39F;

4 (17)~~(16)~~ "Local emergency management agency" means the agency created, operated,  
5 and maintained to coordinate the local comprehensive emergency management  
6 program and disaster and emergency response of a city, county, and urban-county  
7 or charter county government pursuant to KRS Chapters 39A to 39F;

8 (18)~~(17)~~ "Local emergency management director" or "Local director" means the  
9 executive head of the local emergency management agency, appointed pursuant to  
10 the provisions of KRS Chapters 39A to 39F;

11 (19)~~(18)~~ "State emergency management agency" means the Division of Emergency  
12 Management of the Department of Military Affairs; and

13 (20)~~(19)~~ "State emergency management director" means the director of the Division of  
14 Emergency Management.

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

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

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

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

27 (c) To seize, take, or condemn property, for the duration of the emergency, and

1                   only for public use as defined in KRS 416.675, excluding firearms and  
2                   ammunition, components of firearms and ammunition, or a combination  
3                   thereof, for the protection of the public or at the request of the President, the  
4                   Armed Forces, or the Federal Emergency Management Agency of the United  
5                   States, including:

- 6                   1. All means of transportation and communication;
- 7                   2. All stocks of fuel of whatever nature;
- 8                   3. Food, clothing, equipment, materials, medicines, and all supplies; and
- 9                   4. Facilities, including buildings and plants, but excluding houses of  
10                   worship, except to the extent that such houses have become unsafe to a  
11                   degree that would justify condemnation in the absence of a state of  
12                   emergency.

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

- 16                   (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this  
17                   subsection among the inhabitants of the Commonwealth and to account to the  
18                   State Treasurer for any funds received for the property;
- 19                   (e) To make compensation for the property seized, taken, or condemned under  
20                   paragraph (c) of this subsection;
- 21                   (f) To exclude all nonessential, unauthorized, disruptive, or otherwise  
22                   uncooperative personnel from the scene of the emergency, and to command  
23                   those persons or groups assembled at the scene to disperse. A person who  
24                   refuses to leave an area in which a written order of evacuation has been issued  
25                   in accordance with a written declaration of emergency or a disaster may be  
26                   forcibly removed to a place of safety or shelter, or may, if this is resisted, be  
27                   arrested by a peace officer. Forcible removal or arrest shall not be exercised as

- 1                   options until all reasonable efforts for voluntary compliance have been  
2                   exhausted;
- 3                   (g) To declare curfews and establish their limits;
- 4                   (h) To prohibit or limit the sale or consumption of goods, in the event of a  
5                   shortage of goods, excluding firearms and ammunition, components of  
6                   firearms and ammunition, or a combination thereof, or commodities for the  
7                   duration of the emergency;
- 8                   (i) To grant emergency authority to pharmacists pursuant to KRS 315.500, for  
9                   the duration of the emergency;
- 10                   (j) To request any assistance from agencies of the United States as necessary and  
11                   appropriate to meet the needs of the people of the Commonwealth;
- 12                   (k) Upon the recommendation of the Secretary of State, to declare by executive  
13                   order a different time or place for holding elections in an election area for  
14                   which a state of emergency has been declared for part or all of the election  
15                   area. The election shall be held within thirty-five (35) days from the date of  
16                   the suspended or delayed election. The executive order shall remain in effect  
17                   until the date of the suspended or delayed election regardless of the time  
18                   limitations in KRS 39A.090 and shall not be changed except by action of the  
19                   General Assembly. The State Board of Elections shall establish procedures for  
20                   election officials to follow. Any procedures established under this paragraph  
21                   shall be subject to the approval of the Secretary of State and the Governor by  
22                   respective executive orders; and
- 23                   (l) Except as prohibited by this section or other law, to take action necessary to  
24                   execute those powers enumerated in paragraphs (a) to (k) of this subsection.
- 25                   (2) Within thirty (30) days of a declared emergency, and every thirty (30) days  
26                   thereafter, the Governor shall report to the General Assembly, if in session, or to the  
27                   Legislative Research Commission if the General Assembly is not in session, on a

- 1                   form provided by the Commission detailing:
- 2                   (a) All expenditures relating to contracts issued during the emergency under KRS  
3                   45A.085 or 45A.095, or under any provision for which a state agency does not  
4                   solicit bids or proposals for a contract; and
- 5                   (b) All revenues received from the federal government in response to the declared  
6                   emergency, any expenditures or expenditure plan for the federal funds by  
7                   federal program, the state agency or program that was allocated the federal  
8                   funds, and any state fund expenditures required to match the federal funds.
- 9                   (3) In the event of the occurrence or threatened or impending occurrence of any of the  
10                  situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in  
11                  the judgment of a local chief executive officer is of such severity or complexity as  
12                  to require the exercise of extraordinary emergency measures, the county  
13                  judge/executive of a county other than an urban-county government, or mayor of a  
14                  city or urban-county government, or chief executive of other local governments or  
15                  their designees as provided by ordinance of the affected county, city, or urban-  
16                  county may declare in writing that a state of emergency exists, and thereafter,  
17                  subject to any orders of the Governor, shall have and may exercise for the period as  
18                  the state of emergency exists or continues, the following emergency powers:
- 19                  (a) To enforce all laws and administrative regulations relating to disaster and  
20                  emergency response and to direct all local disaster and emergency response  
21                  forces and operations in the affected county, city, urban-county, or charter  
22                  county;
- 23                  (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative  
24                  personnel from the scene of the emergency, and to command persons or  
25                  groups of persons at the scene to disperse. A person who refuses to leave an  
26                  area in which a written order of evacuation has been issued in accordance  
27                  with a written declaration of emergency or a disaster may be forcibly removed

1 to a place of safety or shelter, or may, if this is resisted, be arrested by a peace  
2 officer. Forcible removal or arrest shall not be exercised as options until all  
3 reasonable efforts for voluntary compliance have been exhausted;

4 (c) To declare curfews and establish their limits;

5 (d) To order immediate purchase or rental of, contract for, or otherwise procure,  
6 without regard to procurement codes or budget requirements, the goods and  
7 services essential for protection of public health and safety or to maintain or  
8 to restore essential public services; and

9 (e) To request emergency assistance from any local government or special district  
10 and, through the Governor, to request emergency assistance from any state  
11 agency and to initiate requests for federal assistance as are necessary for  
12 protection of public health and safety or for continuation of essential public  
13 services.

14 (4) *In the event of the occurrence or threatened or impending occurrence of any*  
15 *animal health emergency, which in the judgement of the Commissioner of*  
16 *Agriculture in consultation with the state veterinarian, is of such severity or*  
17 *complexity as to require the exercise of extraordinary emergency measures, the*  
18 *Commissioner of Agriculture may declare, in writing, that an animal health*  
19 *emergency exists and, subject to any order of the Governor, may exercise*  
20 *emergency powers for the period the animal health emergency exists or continues*  
21 *to:*

22 (a) *Order the immediate purchase or procurement of or contract for veterinary*  
23 *services from any veterinarian or veterinarian technician licensed in the*  
24 *Commonwealth or any other state;*

25 (b) *Request the secretary of the Transportation Cabinet to issue any permits*  
26 *and waive any regulatory requirements relating to the transportation of*  
27 *animal feed stock or medicine, including but not limited to:*

- 1        1. Vehicle weight limits; or
  - 2        2. Driver safety restrictions;
  - 3        and the secretary shall not deny the request absent good cause;
  - 4        (c) Order the quarantine of any livestock, poultry, or other domesticated animal  
5        and any articles or equipment capable of acting as a vector of  
6        communicable disease;
  - 7        (d) Establish roadblocks on any roadway within the Commonwealth in order to  
8        prevent the transportation of the livestock, poultry, domesticated animal,  
9        article, or equipment ordered quarantined, with the assistance of:
    - 10        1. State law enforcement;
    - 11        2. Local law enforcement; or
    - 12        3. Game wardens employed by the Kentucky Department of Fish and  
13        Wildlife Resources;
  - 14        (e) Order the immediate purchase, procurement, or rental of or contract for,  
15        without regard to procurement requirements established in KRS Chapter  
16        45A, the goods and services, including materials and services needed to stop  
17        the spread of a communicable disease, essential for the protection of public  
18        health and safety or to maintain or restore essential public services; and
  - 19        (f) Request any emergency assistance as is necessary for the protection of  
20        public health and safety or for the continuation of essential public services  
21        from:
    - 22        1. A local government or special district;
    - 23        2. A state agency; or
    - 24        3. The Governor in order to initiate any request for federal assistance.
- 25        (5) Nothing in this section shall be construed to allow any governmental entity to  
26        impose additional restrictions on:
- 27        (a) The lawful possession, transfer, sale, transport, carrying, storage, display, or

1 use of firearms and ammunition or components of firearms and ammunition;

- 2 (b) The right of the people to exercise free speech, freedom of the press, to  
3 petition their government for redress of injuries, or to peaceably assemble; or  
4 (c) The right of the people to worship, worship in person, or to act or refuse to act  
5 in a manner motivated by a sincerely held religious belief.

6 (6)(5) Nothing in this section shall be construed to allow any governmental entity to

7 impose restrictions on the right of the people to:

- 8 (a) Peaceably assemble; or

9 (b) Worship, worship in person, or to act or refuse to act in a manner motivated

10 by a sincerely held religious belief.

11 (7)(6) (a) A governmental entity shall not prohibit or restrict a religious  
12 organization from operating or engaging in religious services during a  
13 declared emergency to the same or any greater extent than other organizations  
14 or businesses that provide essential services necessary and vital to the health  
15 and welfare of the public are prohibited or restricted.

16 (b) Paragraph (a) of this subsection shall not prohibit the Governor from requiring  
17 religious organizations to comply with neutral health, safety, or occupancy  
18 requirements that are applicable to all organizations and businesses that  
19 provide essential services. However, no health, safety, or occupancy  
20 requirement may impose a substantial burden on a religious organization or its  
21 services unless applying the burden to the religion or religious service in the  
22 particular instance is essential to further a compelling governmental interest  
23 and is the least restrictive means of furthering that compelling governmental  
24 interest.

25 (c) A governmental entity shall not take any discriminatory action against a  
26 religious organization.

27 (8)[(7)] As used in this section:

- 1 (a) "Discriminatory action" includes any action taken by a governmental entity  
2 wholly or partially on the basis that such organization is religious, operates or  
3 seeks to operate during a state of emergency, or engages in the exercise of  
4 religion as protected under the First Amendment to the Constitution of the  
5 United States to:

6 1. Adversely alter in any way the tax treatment of, cause any tax, penalty,  
7 or payment to be assessed against, or deny, delay, or otherwise make  
8 unavailable an exemption from taxation;

9 2. Disallow, deny, or otherwise make unavailable a deduction for state tax  
10 purposes of any charitable contribution made to or by a religious  
11 organization;

12 3. Impose, levy, or assess a monetary fine, fee, civil or criminal penalty,  
13 damages award, or injunction; or

14 4. Withhold, reduce, exclude, terminate, adversely alter the terms or  
15 conditions of, or otherwise make unavailable or deny any:

16 a. State grant, contract, subcontract, cooperative agreement,  
17 guarantee, loan, scholarship, or other similar benefit from or to a  
18 religious organization;

19 b. Entitlement or benefit under a state benefit program from or to a  
20 religious organization; or

21 c. License, certification, accreditation, recognition, or other similar  
22 benefit, position, or status from or to any religious organization;

23 (b) "Governmental entity" means:

24 1. The Commonwealth or any of its political subdivisions;

25 2. Any agency of the state described in KRS 12.020;

26 3. Any person acting under color of state law; and

27 4. Any private person suing under or attempting to enforce a law, rule, or

1                    administrative regulation adopted by the state or any of its political  
2                    subdivisions;

3                    (c) "Religious organization" means:

4                    1. A house of worship, including churches, synagogues, shrines, mosques,  
5                    and temples;

6                    2. A religious group, corporation, association, educational institution,  
7                    ministry, order, society, or similar entity, regardless of whether it is  
8                    integrated or affiliated with a church or other house of worship; or

9                    3. Any officer, owner, employee, manager, religious leader, clergy, or  
10                  minister of an entity or organization described in this paragraph; and

11                  (d) "Religious services" means a meeting, gathering, or assembly of two (2) or  
12                  more persons organized by a religious organization for the purpose of  
13                  worship, teaching, training, providing educational services, conducting  
14                  religious rituals, or other activities that are deemed necessary by the religious  
15                  organization for the exercise of religion.

16                  (9)(8) A religious organization may assert a violation of subsection (5)(4)(c),  
17                  (6)(5)(b), or (7)(6) of this section as a claim against a governmental entity in any  
18                  judicial or administrative proceeding or as a defense in any judicial or  
19                  administrative proceeding without regard to whether the proceeding is brought by  
20                  or in the name of the governmental entity, any private person, or any other party.  
21                  Sovereign, governmental, and qualified immunity are waived to the extent of  
22                  liability created under this section. An action asserting a violation of this section  
23                  may be commenced, and relief may be granted, without regard to whether the  
24                  religious organization commencing the action has sought or exhausted  
25                  administrative remedies.

26                  (10)(9) Remedies available to a religious organization under this section against a  
27                  governmental entity include:

- 1       (a) Declaratory relief;
- 2       (b) Injunctive relief to prevent or remedy a violation of this section or the effects  
3            of such violation;
- 4       (c) Compensatory damages for pecuniary and nonpecuniary losses;
- 5       (d) Reasonable attorneys' fees and costs; and
- 6       (e) Any other appropriate relief.

7       (11)~~(10)~~ Remedies available to a religious organization under this section against a  
8            person not acting under color of state law shall be limited to declaratory and  
9            injunctive relief.

10      (12)~~(11)~~ This section:

- 11       (a) Shall be construed in favor of a broad protection of free exercise of religion;
- 12       (b) Shall be in addition to the protections provided under state and federal laws  
13            and constitutions. Nothing in this section shall be construed to:
  - 14            1. Preempt or repeal any state law or local ordinance that is equally or  
15                more protective of free exercise of religion; or
  - 16            2. Narrow the meaning or application of any state law or local ordinance  
17                protecting free exercise of religion; and
- 18       (c) Applies to, and in cases of conflict, supersedes:
  - 19            1. Each statute of the Commonwealth that infringes upon the free exercise  
20                of religion protected by this section, unless a conflicting statute is  
21                expressly made exempt from the application of this section; and
  - 22            2. Any ordinance, rule, administrative regulation, order, opinion, decision,  
23                practice, or other exercise of a governmental entity's authority that  
24                infringes upon the free exercise of religion protected by this section.

25      (13)~~(12)~~ A religious organization shall bring an action to assert a claim under this  
26            section no later than two (2) years from the date the person knew or should have  
27            known that a discriminatory action or other violation of this section was taken

1           against that religious organization.