

AN ACT concerning governmental response to the 2020 COVID-19 pandemic in Kansas; providing certain relief related to health, welfare, property and economic security during this public health emergency; relating to state disaster emergency; powers of governor and executive officers; providing certain limitations and restrictions; business and commercial activities, local health officials; violations of emergency management act; amending K.S.A. 48-923 and 48-939 and K.S.A. 2019 Supp. 48-925 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) The state of disaster emergency that was declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, by proclamation on March 12, 2020, which was ratified and continued in force and effect through May 1, 2020, by 2020 House Concurrent Resolution No. 5025, adopted by the house of representatives with the senate concurring therein on March 19, 2020, and declared by proclamation on April 30, 2020, which was extended and continued in existence by the state finance council on May 13, 2020, for an additional 12 days through May 26, 2020, for all 105 counties of Kansas, as a result of the COVID-19 health emergency, is hereby ratified and continued in existence from March 12, 2020, through May 26, 2020.

(b) The governor shall not proclaim any new state of disaster emergency related to the COVID-19 health emergency during 2020, unless the governor makes specific application to the state finance council and an affirmative vote of at least six legislative members approve such action by the governor.

New Sec. 2. (a) Notwithstanding any other provision of law, during any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, neither the governor nor any executive officer or employee of the state of Kansas shall order the closure or cessation of any

business or commercial activity in response to any or all conditions necessitating the declared state of disaster emergency for more than a cumulative total of 15 days in duration during 2020.

(b) Any order issued that violates or exceeds the restrictions provided in subsection (a) shall not have force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, and any such order shall be null and void.

(c) If the governor or any other executive officer or employee of the state of Kansas orders the closure or cessation of any business or commercial activity during any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, upon the expiration of any such order, the authority to determine whether any such business or commercial activity should be prohibited from reopening and resuming business or commercial activities shall be vested in local health officials pursuant to applicable provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. In such event, any order of local health officials shall be based on local needs and conditions and shall be subject to review and approval, disapproval or modification by the applicable board of county commissioners within three days.

(d) The provisions of this section shall expire on January 1, 2021.

Sec. 3. K.S.A. 48-923 is hereby amended to read as follows: 48-923. Nothing in the emergency management act shall be construed to:

(a) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this act may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(b) interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including but not limited to radio and television

stations, wire services and newspapers, may be required by the governor to transmit or print public service messages, information or instructions in connection with a declared state of disaster emergency;

(c) authorize the governor or any other state officer or employee to order the closure or cessation of any business or commercial activity in response to any or all conditions necessitating the declaration of any state of disaster emergency, except the governor or other state officer or employee may order such closure or cessation for a total period of time not to exceed 15 days during any declared state of disaster emergency;

(d) affect, other than during a declared state of disaster emergency, the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but the state disaster emergency plan and local and interjurisdictional disaster emergency plans shall place reliance upon such forces which are available for performance of functions related to a declared state of disaster emergency; or

~~(d)~~(e) limit, modify or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in the governor under the constitution, statutes or common law of this state independent of, or in conjunction with, any provisions of this act.

Sec. 4. K.S.A. 2019 Supp. 48-925 is hereby amended to read as follows: 48-925. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive

orders or in rules and regulations of the adjutant general, but nothing herein shall restrict the authority of the governor to do so by orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation thereof, the governor may issue orders in conformity with the constitution and the bill of rights of the state of Kansas and proclamations ~~which that~~ shall have the force and effect of law during the period of a state of disaster emergency declared under ~~subsection (b) of~~ K.S.A. 48-924(b), and amendments thereto, and ~~which such~~ orders and proclamations shall be null and void thereafter unless ratified by concurrent resolution of the legislature. Such orders and proclamations may be revoked at any time by concurrent resolution of the legislature.

(c) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, and in addition to any other powers conferred upon the governor by law, the governor may:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and

amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

~~(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;~~

~~(9)~~ make provision for the availability and use of temporary emergency housing;

~~(10)~~(9) require and direct the cooperation and assistance of state and local governmental agencies and officials, subject to the provisions of section 2, and amendments thereto; and

~~(11)~~(10) perform and exercise such other administrative functions, powers and duties in conformity with the constitution and the bill of rights of the state of Kansas as are necessary to promote and secure the safety and protection of the civilian population.

(d) The governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition pursuant to subsection (c) or any other executive

authority. The governor shall exercise the powers conferred by subsection (c) by issuance of orders under subsection (b). The adjutant general, subject to the direction of the governor, shall administer such orders.

Sec. 5. K.S.A. 48-939 is hereby amended to read as follows: 48-939. (a) The knowing and willful violation of any provision of this act or any rule and regulation adopted by the adjutant general under this act or any lawful order or proclamation issued under authority of this act whether pursuant to a proclamation declaring a state of disaster emergency under K.S.A. 48-924, and amendments thereto, or a declaration of a state of local disaster emergency under K.S.A. 48-932, and amendments thereto, shall constitute a class A misdemeanor and any person convicted of such violation shall be punished as provided by law therefor.

(b) Prior to February 1, 2021, each complaint alleging a violation of this section shall be brought or maintained by a county or district attorney and the attorney general or by the attorney general.

Sec. 6. K.S.A. 48-923 and 48-939 and K.S.A. 2019 Supp. 48-925 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.