
A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the emergence of the
2 coronavirus disease 2019 (COVID-19) and its variants created a
3 great challenge to global health, the economy, and our way of
4 life. The governor and county mayors have exercised their
5 emergency powers under chapter 127A, Hawaii Revised Statutes, to
6 impose rules aimed at combatting COVID-19. The legislature
7 further finds that the enforcement of these rules has been
8 critical to efforts to limit the spread of COVID-19, protect the
9 health and safety of the community, manage medical resources,
10 and promote economic recovery. The COVID-19 pandemic has
11 highlighted the importance of clear legal frameworks for state
12 and county emergency management to ensure the State and counties
13 are prepared for any type of emergency. The legislature
14 believes that existing law relating to emergency management
15 should clearly specify and articulate the bases for emergency
16 actions.



1 The purpose of this Act is to reform the legal framework
2 governing emergency management in the State by:

3 (1) Clarifying that the powers granted for emergency
4 purposes shall not be inconsistent with the Hawaii
5 State Constitution;

6 (2) Providing parameters for the duration of the
7 suspension of laws and require justification for the
8 suspension;

9 (3) Authorizing the governor to require counties to obtain
10 the governor's approval or the approval of the
11 director of the Hawaii emergency management agency
12 prior to issuing any emergency order, rule, or
13 proclamation;

14 (4) Clarifying that a state of emergency may be extended
15 or terminated by a separate or supplementary
16 proclamation;

17 (5) Authorizing the legislature to terminate a state of
18 emergency, in part or in whole, by a two-thirds vote
19 of each legislative house; and

20 (6) Specifying that prohibitions on price increases of
21 essential commodities during a severe weather warning



1 expire seventy-two hours after the effective date and
2 time of the initial declaration or any supplemental
3 proclamation.

4 SECTION 2. Section 127A-1, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) It is the intent of the legislature to provide for
7 and confer comprehensive powers for the purposes stated herein.
8 This chapter shall be liberally construed to effectuate its
9 purposes; provided that this chapter shall not be construed as
10 conferring any power or permitting any action [~~which~~] that is
11 inconsistent with the Constitution and laws of the United
12 States, or the Hawaii State Constitution, but, in so construing
13 this chapter, due consideration shall be given to the
14 circumstances as they exist from time to time. This chapter
15 shall not be deemed to have been amended by any act hereafter
16 enacted at the same or any other session of the legislature,
17 unless this chapter is amended by express reference."

18 SECTION 3. Section 127A-2, Hawaii Revised Statutes, is
19 amended by adding a new definition to be appropriately inserted
20 and to read as follows:



1 "Severe warning" means the issuance by the National
2 Weather Service, Pacific Tsunami Warning Center, United States
3 Geological Survey, or other public authority of a public
4 notification that a dangerous weather condition exists that
5 could impact the State, or any portion of it, within a specified
6 period of time. "Severe warning" includes but is not limited to
7 warnings of coastal inundation (high surf), flash flooding,
8 volcano, tsunami, or hurricane."

9 SECTION 4. Section 127A-13, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§127A-13 Additional powers in an emergency period. (a)**
12 In the event of a state of emergency declared by the governor
13 pursuant to section 127A-14, the governor may exercise the
14 following additional powers pertaining to emergency management
15 during the emergency period:

- 16 (1) Provide for and require the quarantine or segregation
17 of persons who are affected with or believed to have
18 been exposed to any infectious, communicable, or other
19 disease that is, in the governor's opinion, dangerous
20 to the public health and safety, or persons who are
21 the source of other contamination, in any case where,



1 in the governor's opinion, the existing laws are not
2 adequate to assure the public health and safety;
3 provide for the care and treatment of the persons;
4 supplement the provisions of sections 325-32 to 325-38
5 concerning compulsory immunization programs; provide
6 for the isolation or closing of property [~~which~~] that
7 is a source of contamination or is in a dangerous
8 condition in any case where, in the governor's
9 opinion, the existing laws are not adequate to assure
10 the public health and safety, and designate as public
11 nuisances acts, practices, conduct, or conditions that
12 are dangerous to the public health or safety or to
13 property; authorize that public nuisances be summarily
14 abated and, if need be, that the property be
15 destroyed, by any police officer or authorized person,
16 or provide for the cleansing or repair of property,
17 and if the cleansing or repair is to be at the expense
18 of the owner, the procedure therefor shall follow as
19 nearly as may be the provisions of section 322-2,
20 which shall be applicable; and further, authorize



1 without the permission of the owners or occupants,
2 entry on private premises for any such purposes;

3 (2) Relieve hardships and inequities, or obstructions to
4 the public health, safety, or welfare, found by the
5 governor to exist in the laws and to result from the
6 operation of federal programs or measures taken under
7 this chapter, by suspending the laws, in whole or in
8 part, or by alleviating the provisions of laws on
9 ~~[such]~~ terms and conditions as the governor may
10 impose, including licensing laws, quarantine laws, and
11 laws relating to labels, grades, and standards;

12 (3) Suspend any law that impedes or tends to impede or be
13 detrimental to the expeditious and efficient execution
14 of, or to conflict with, emergency functions,
15 including laws ~~[which]~~ that by this chapter
16 specifically are made applicable to emergency
17 personnel; provided that any suspension of law shall
18 be no broader and last no longer than the governor
19 deems necessary for the execution of emergency
20 management functions, and any suspension of law shall
21 identify the section of law suspended, and for each



1 section, shall specify the emergency management
2 functions facilitated and justify the suspension based
3 on protecting the public health, safety, and welfare;
4 provided further that any suspension of any law that
5 requires permits, authorizations, or approvals from
6 any state or county agency may continue beyond the
7 emergency period to allow for the completion of any
8 repairs, reconstruction, rebuilding, or construction
9 of any state or county infrastructure, facilities, or
10 properties that would otherwise be delayed by any such
11 permit, authorization, or approval;

- 12 (4) Suspend the provisions of any regulatory law
13 prescribing the procedures for out-of-state utilities
14 to conduct business in the State including any
15 licensing laws applicable to out-of-state utilities or
16 their respective employees, as well as any order,
17 rule, or regulation of any state agency, if strict
18 compliance with the provisions of any such law, order,
19 rule, or regulation would in any way prevent, hinder,
20 or delay necessary action of a state utility in coping



1 with the emergency or disaster with assistance that
2 may be provided under a mutual assistance agreement;

3 (5) In the event of disaster or emergency beyond local
4 control, or an event which, in the opinion of the
5 governor, is such as to make state operational control
6 or coordination necessary, or upon request of the
7 ~~[local entity, assume]~~ county:

8 (A) Assume direct operational control over all or any
9 part of the emergency management functions within
10 the affected area; and

11 (B) Notwithstanding sections 127A-14 and 127A-25,
12 require the county to obtain the approval of the
13 governor or director prior to issuing any
14 emergency order, rule, or proclamation under this
15 chapter;

16 (6) Shut off water mains, gas mains, electric power
17 connections, or suspend other services, and, to the
18 extent permitted by or under federal law, suspend
19 electronic media transmission;

20 (7) Direct and control the mandatory evacuation of the
21 civilian population;



1 (8) Exercise additional emergency functions to the extent
2 necessary to prevent hoarding, waste, or destruction
3 of materials, supplies, commodities, accommodations,
4 facilities, and services, to effectuate equitable
5 distribution thereof, or to establish priorities
6 therein as the public welfare may require; to
7 investigate; and notwithstanding any other law to the
8 contrary, to regulate or prohibit, by means of
9 licensing, rationing, or otherwise, the storage,
10 transportation, use, possession, maintenance,
11 furnishing, sale, or distribution thereof, and any
12 business or any transaction related thereto;

13 (9) Suspend section 8-1, relating to state holidays,
14 except the last paragraph relating to holidays
15 declared by the president, which shall remain
16 unaffected, and in the event of the suspension, the
17 governor may establish state holidays by proclamation;

18 (10) Adjust the hours for voting to take into consideration
19 the working hours of the voters during the emergency
20 period, and suspend those provisions of section 11-131
21 that fix the hours for voting, and fix other hours by



1 stating the same in the election proclamation or
2 notice, as the case may be;

3 (11) Assure the continuity of service by critical
4 infrastructure facilities, both publicly and privately
5 owned, by regulating or, if necessary to the
6 continuation of the service thereof, by taking over
7 and operating the same; and

8 (12) Except as provided in section 134-7.2, whenever in the
9 governor's opinion, the laws of the State do not
10 adequately provide for the common defense, public
11 health, safety, and welfare, investigate, regulate, or
12 prohibit the storage, transportation, use, possession,
13 maintenance, furnishing, sale, or distribution of, as
14 well as any transaction related to, explosives,
15 firearms, and ammunition, inflammable materials and
16 other objects, implements, substances, businesses, or
17 services of a hazardous or dangerous character, or
18 particularly capable of misuse, or obstructive of or
19 tending to obstruct law enforcement, emergency
20 management, or military operations, including
21 intoxicating liquor and the liquor business; and



1 authorize the seizure and forfeiture of any such
2 objects, implements, or substances unlawfully
3 possessed, as provided in this chapter.

4 (b) In the event of a local state of emergency declared by
5 the mayor pursuant to [†]section[†] 127A-14, the mayor may
6 exercise the following additional powers pertaining to emergency
7 management during the emergency period:

8 (1) Relieve hardships and inequities, or obstructions to
9 the public health, safety, or welfare, found by the
10 mayor to exist in the laws of the county and to result
11 from the operation of federal programs or measures
12 taken under this chapter, by suspending the county
13 laws, in whole or in part, or by alleviating the
14 provisions of county laws on [~~such~~] terms and
15 conditions as the mayor may impose, including county
16 licensing laws[7] and county laws relating to labels,
17 grades, and standards;

18 (2) Suspend any county law that impedes or tends to impede
19 or be detrimental to the expeditious and efficient
20 execution of, or to conflict with, emergency
21 functions, including laws [~~which~~] that by this chapter



specifically are made applicable to emergency personnel; provided that any suspension of law shall be no broader and last no longer than the mayor deems necessary for the execution of emergency management functions, and any suspension of law shall identify the section of law suspended, and for each section, shall specify the emergency management functions facilitated and justify the suspension based on protecting the public health, safety, and welfare; provided further that any suspension of any law that requires permits, authorizations, or approvals from any county agency may continue beyond the emergency period to allow for the completion of any repairs, reconstruction, rebuilding, or construction of any county infrastructure, facilities, or properties that would otherwise be delayed by any such permit, authorization, or approval;

- (3) Shut off water mains, gas mains, electric power connections, or suspend other services; and, to the extent permitted by or under federal law, suspend electronic media transmission;



- 1 (4) Direct and control the mandatory evacuation of the
2 civilian population; and
- 3 (5) Exercise additional emergency functions, to the extent
4 necessary to prevent hoarding, waste, or destruction
5 of materials, supplies, commodities, accommodations,
6 facilities, and services, to effectuate equitable
7 distribution thereof, or to establish priorities
8 therein as the public welfare may require; to
9 investigate; and any other county law to the contrary
10 notwithstanding, to regulate or prohibit, by means of
11 licensing, rationing, or otherwise, the storage,
12 transportation, use, possession, maintenance,
13 furnishing, sale, or distribution thereof, and any
14 business or any transaction related thereto."

15 SECTION 5. Section 127A-14, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§127A-14 State of emergency.** (a) The governor may
18 declare the existence of a state of emergency in the State by
19 proclamation if the governor finds that an emergency or disaster
20 has occurred or that there is imminent danger or threat of an
21 emergency or disaster in any portion of the State.



1 (b) A mayor may declare the existence of a local state of
2 emergency in the county by proclamation if the mayor finds that
3 an emergency or disaster has occurred or that there is imminent
4 danger or threat of an emergency or disaster in any portion of
5 the county.

6 (c) ~~[The]~~ Except as provided in subsection (e), the
7 governor or mayor shall be the sole judge of the existence of
8 the danger, threat, or circumstances giving rise to a
9 declaration, extension, or termination of a state of emergency
10 in the State or a local state of emergency in the county, as
11 applicable. This section shall not limit the power and
12 authority of the governor under section 127A-13(a)(5).

13 (d) A state of emergency and a local state of emergency
14 shall terminate automatically sixty days after the issuance of a
15 proclamation of a state of emergency or local state of
16 emergency, respectively, ~~[or]~~ unless extended or terminated by a
17 separate or supplementary proclamation of the governor or
18 mayor~~[, whichever occurs first]~~.

19 (e) The legislature may, by an affirmative vote of
20 two-thirds of the members to which each house is entitled,



1 terminate a state of emergency, in part or in whole, declared by
2 the governor pursuant to this section."

3 SECTION 6. Section 127A-30, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The prohibitions under subsection (a) shall remain in
6 effect until twenty-four hours after the severe [~~weather~~]
7 warning is canceled [~~by the National Weather Service~~]; or in the
8 event of a declaration, [~~the later of a date specified by the~~
9 ~~governor or mayor in the declaration or ninety-six~~] seventy-two
10 hours after the effective date and time of the declaration,
11 unless [~~such~~] the prohibition is identified and continued [~~by a~~
12 ~~supplementary declaration issued~~] by the governor or mayor~~[-]~~ in
13 the proclamation or any supplementary proclamation. Further,
14 the prohibitions under subsection (a) shall not prohibit an
15 increase in the price at which a commodity may be offered,
16 advertised, or sold if the increase is related to seasonal
17 fluctuations or local, regional, national, or international
18 market trends occurring during the normal course of business.
19 Any proclamation issued under this chapter that fails to state
20 the time at which it will take effect, shall take effect at
21 twelve noon of the day on which it takes effect."



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Emergency Powers; State of Emergency; Local State of Emergency;
Termination; Extension; Legislative Override; Price Control

Description:

Clarifies that the powers granted for emergency purposes shall not be inconsistent with the state constitution. Provides parameters for the duration of suspension of laws and requires justification for the suspension. Authorizes the governor to require counties to obtain approval prior to issuing any emergency order, rule, or proclamation. Clarifies that a state of emergency may be extended or terminated by a separate or supplementary proclamation. Authorizes the legislature to terminate a state of emergency, in part or in whole, by an affirmative two-thirds vote. Specifies that prohibitions on price increases of essential commodities during a severe weather warning expire seventy-two hours after the effective date and time of the initial declaration or any supplemental proclamation. Effective 7/1/2050. (SD1)

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