

JAN 18 2023

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 power of a mayor
2 or the governor to suspend the transmission of electronic media
3 during a state of emergency is overly broad and vague.
4 Electronic media could include not only all radio and television
5 broadcasts, but also could potentially include text messages,
6 emails, and posts to social media platforms, which would
7 restrain lawful free speech and publication and violate the
8 First Amendment of the United States Constitution.

9 The purpose of this Act is to remove the ability for a
10 mayor or the governor to suspend electronic media transmission
11 during a state of emergency.

12 SECTION 2. Section 127A-13, Hawaii Revised Statutes, is
13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) In the event of a state of emergency declared by the
15 governor pursuant to section 127A-14, the governor may exercise
16 the following additional powers pertaining to emergency
17 management during the emergency period:



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1 (1) Provide for and require the quarantine or segregation
2 of persons who are affected with or believed to have
3 been exposed to any infectious, communicable, or other
4 disease that is, in the governor's opinion, dangerous
5 to the public health and safety, or persons who are
6 the source of other contamination, in any case where,
7 in the governor's opinion, the existing laws are not
8 adequate to assure the public health and safety;
9 provide for the care and treatment of the persons;
10 supplement the provisions of sections 325-32 to 325-38
11 concerning compulsory immunization programs; provide
12 for the isolation or closing of property which is a
13 source of contamination or is in a dangerous condition
14 in any case where, in the governor's opinion, the
15 existing laws are not adequate to assure the public
16 health and safety, and designate as public nuisances
17 acts, practices, conduct, or conditions that are
18 dangerous to the public health or safety or to
19 property; authorize that public nuisances be summarily
20 abated and, if need be, that the property be
21 destroyed, by any police officer or authorized person,



1 or provide for the cleansing or repair of property,
2 and if the cleansing or repair is to be at the expense
3 of the owner, the procedure therefor shall follow as
4 nearly as may be the provisions of section 322-2,
5 which shall be applicable; and further, authorize
6 without the permission of the owners or occupants,
7 entry on private premises for any such purposes;

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

17 (3) Suspend any law that impedes or tends to impede or be
18 detrimental to the expeditious and efficient execution
19 of, or to conflict with, emergency functions,
20 including laws which by this chapter specifically are
21 made applicable to emergency personnel;



- 1 (4) Suspend the provisions of any regulatory law
2 prescribing the procedures for out-of-state utilities
3 to conduct business in the State including any
4 licensing laws applicable to out-of-state utilities or
5 their respective employees, as well as any order,
6 rule, or regulation of any state agency, if strict
7 compliance with the provisions of any such law, order,
8 rule, or regulation would in any way prevent, hinder,
9 or delay necessary action of a state utility in coping
10 with the emergency or disaster with assistance that
11 may be provided under a mutual assistance agreement;
- 12 (5) In the event of disaster or emergency beyond local
13 control, or an event which, in the opinion of the
14 governor, is such as to make state operational control
15 necessary, or upon request of the local entity, assume
16 direct operational control over all or any part of the
17 emergency management functions within the affected
18 area;
- 19 (6) Shut off water mains, gas mains, electric power
20 connections, or suspend other services [~~, and, to the~~



1 ~~extent permitted by or under federal law, suspend~~
2 ~~electronic media transmission]~~;

3 (7) Direct and control the mandatory evacuation of the
4 civilian population;

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

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



- 1 (10) Adjust the hours for voting to take into consideration
2 the working hours of the voters during the emergency
3 period, and suspend those provisions of section 11-131
4 that fix the hours for voting, and fix other hours by
5 stating the same in the election proclamation or
6 notice, as the case may be;
- 7 (11) Assure the continuity of service by critical
8 infrastructure facilities, both publicly and privately
9 owned, by regulating or, if necessary to the
10 continuation of the service thereof, by taking over
11 and operating the same; and
- 12 (12) Except as provided in section 134-7.2, whenever in the
13 governor's opinion, the laws of the State do not
14 adequately provide for the common defense, public
15 health, safety, and welfare, investigate, regulate, or
16 prohibit the storage, transportation, use, possession,
17 maintenance, furnishing, sale, or distribution of, as
18 well as any transaction related to, explosives,
19 firearms, and ammunition, inflammable materials and
20 other objects, implements, substances, businesses, or
21 services of a hazardous or dangerous character, or



1 particularly capable of misuse, or obstructive of or
2 tending to obstruct law enforcement, emergency
3 management, or military operations, including
4 intoxicating liquor and the liquor business; and
5 authorize the seizure and forfeiture of any such
6 objects, implements, or substances unlawfully
7 possessed, as provided in this chapter.

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

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



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- 1 (2) Suspend any county law that impedes or tends to impede
2 or be detrimental to the expeditious and efficient
3 execution of, or to conflict with, emergency
4 functions, including laws which by this chapter
5 specifically are made applicable to emergency
6 personnel;
- 7 (3) Shut off water mains, gas mains, electric power
8 connections, or suspend other services; ~~[and, to the~~
9 ~~extent permitted by or under federal law, suspend~~
10 ~~electronic media transmission;]~~
- 11 (4) Direct and control the mandatory evacuation of the
12 civilian population; and
- 13 (5) Exercise additional emergency functions, to the extent
14 necessary to prevent hoarding, waste, or destruction
15 of materials, supplies, commodities, accommodations,
16 facilities, and services, to effectuate equitable
17 distribution thereof, or to establish priorities
18 therein as the public welfare may require; to
19 investigate; and any other county law to the contrary
20 notwithstanding, to regulate or prohibit, by means of
21 licensing, rationing, or otherwise, the storage,



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1 transportation, use, possession, maintenance,
2 furnishing, sale, or distribution thereof, and any
3 business or any transaction related thereto."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken.

6 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Samuel H. Hodge*



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Report Title:

Emergency Management; State of Emergency; Electronic Media Transmission

Description:

Removes the ability for a Mayor or the Governor to suspend electronic media transmission during a state of emergency.

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