

JAN 18 2023

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# 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*



# S.B. NO. 103

**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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

