

REFERENCE TITLE: state of emergency; automatic termination

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1084

Introduced by
Senators Ugenti-Rita: Barto, Borrelli, Gowan, Kerr, Leach, Livingston,
Mesnard, Pace, Petersen, Rogers, Townsend

AN ACT

AMENDING SECTION 26-303, ARIZONA REVISED STATUTES; RELATING TO EMERGENCY
MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-303, Arizona Revised Statutes, is amended to
3 read:

4 26-303. Emergency powers of governor; termination;
5 authorization for adjutant general; limitation

6 A. During a state of war emergency, the governor may:

7 1. Suspend the provisions of any statute prescribing the procedure
8 for conduct of state business, or the orders or rules of any state agency,
9 if the governor determines and ~~declares~~ PROCLAIMS that strict compliance
10 with the provisions of any such statute, order or rule would in any way
11 prevent, hinder or delay mitigation of the effects of the emergency.

12 2. Commandeer and ~~utilize~~ USE any property, except for firearms or
13 ammunition or firearms or ammunition components, or personnel deemed
14 necessary in carrying out the responsibilities vested in the office of the
15 governor by this chapter as chief executive of ~~the~~ THIS state, and
16 thereafter ~~the~~ THIS state shall pay reasonable compensation ~~therefor~~ FOR
17 THE PROPERTY as follows:

18 (a) If property is taken for temporary use, the governor, within
19 ten days after the taking, shall determine the amount of compensation to
20 be paid ~~therefor~~ FOR THE PROPERTY. If the property is returned in a
21 damaged condition, the governor, within ten days after its return, shall
22 determine the amount of compensation to be paid for such damage.

23 (b) If the governor deems it necessary for ~~the~~ THIS state to take
24 title to property under this section, the governor shall then cause the
25 owner of the property to be notified thereof in writing by registered
26 mail, postage prepaid, and then cause a copy of the notice to be filed
27 with the secretary of state.

28 (c) If the owner refuses to accept the amount of compensation fixed
29 by the governor for the property referred to in subdivisions (a) and (b)
30 OF THIS PARAGRAPH, the amount of compensation shall be determined by
31 appropriate proceedings in the superior court in the county where the
32 property was originally taken.

33 B. During a state of war emergency, the governor shall have
34 complete authority over all agencies of the state government and shall
35 exercise all police power vested in this state by the constitution and
36 laws of this state in order to effectuate the purposes of this chapter.

37 C. The powers granted TO the governor by this chapter with respect
38 to a state of war emergency shall terminate if the legislature is not in
39 session and the governor, within twenty-four hours after the beginning of
40 such A state of war emergency, has not issued a call for an immediate
41 special session of the legislature for the purpose of legislating on
42 subjects relating to such A state of war emergency.

1 D. The governor may proclaim a state of emergency, which shall take
2 effect immediately in an area affected or likely to be affected if the
3 governor finds that circumstances described in section 26-301, paragraph
4 15 exist. ON TERMINATION OF A STATE OF EMERGENCY PURSUANT TO SUBSECTION F
5 OF THIS SECTION, THE GOVERNOR MAY NOT PROCLAIM A NEW STATE OF EMERGENCY
6 BASED ON THE SAME OR SUBSTANTIALLY SIMILAR FACTS AND CIRCUMSTANCES WITHOUT
7 THE PASSAGE OF A CONCURRENT RESOLUTION BY THE LEGISLATURE CONSENTING TO
8 THE NEW STATE OF EMERGENCY. IF THE GOVERNOR FAILS TO COMPLY WITH THE
9 PROHIBITION IN THIS SUBSECTION, ANY CITIZEN MAY APPLY TO THE SUPERIOR
10 COURT FOR A WRIT OF MANDAMUS TO COMPEL THE GOVERNOR TO COMPLY WITH THIS
11 SUBSECTION.

12 E. During a state of emergency:

13 1. The governor shall have complete authority over all agencies of
14 the state government and the right to exercise, within the area
15 designated, all police power vested in ~~the~~ THIS state by the constitution
16 and laws of this state in order to effectuate the purposes of this
17 chapter.

18 2. The governor may direct all agencies of the state government to
19 ~~utilize~~ USE and employ state personnel, equipment and facilities ~~for the~~
20 ~~performance~~ TO PERFORM of any ~~and all~~ activities designed to prevent or
21 alleviate actual and threatened damage due to the emergency. The governor
22 may direct such agencies to provide supplemental services and equipment to
23 political subdivisions to restore any services in order to provide for the
24 health and safety of the citizens of the affected area.

25 F. The powers granted TO the governor by this chapter with respect
26 to a state of emergency shall terminate when the state of emergency has
27 been terminated. THE STATE OF EMERGENCY TERMINATES EITHER:

28 1. TWENTY-ONE DAYS AFTER THE DATE ON WHICH THE STATE OF EMERGENCY
29 IS PROCLAIMED, UNLESS OTHERWISE EXTENDED IN WHOLE OR IN PART BY PASSAGE OF
30 A CONCURRENT RESOLUTION OF THE LEGISLATURE. THE LEGISLATURE MAY EXTEND
31 THE STATE OF EMERGENCY AS MANY TIMES AS NECESSARY BY CONCURRENT
32 RESOLUTION, BUT ANY EXTENSION MAY NOT BE FOR A PERIOD OF MORE THAN
33 TWENTY-ONE DAYS.

34 2. EARLIER THAN THE TIME PERIODS PRESCRIBED IN PARAGRAPH 1 OF THIS
35 SUBSECTION, by proclamation of the governor or by concurrent resolution of
36 the legislature declaring it at an end.

37 G. ~~No provision of~~ This chapter ~~may~~ DOES NOT limit, modify or
38 abridge the powers vested in the governor under the constitution or
39 statutes of this state.

40 H. If authorized by the governor, the adjutant general has the
41 powers prescribed in this subsection. If, in the judgment of the adjutant
42 general, circumstances described in section 26-301, paragraph 15 exist,
43 the adjutant general may:

1 1. Exercise those powers pursuant to statute and gubernatorial
2 authorization following the proclamation of a state of emergency under
3 subsection D of this section.

4 2. Incur obligations of ~~one hundred thousand dollars~~ \$100,000 or
5 less for each emergency or contingency payable pursuant to section 35-192
6 as though a state of emergency had been proclaimed under subsection D of
7 this section.

8 I. The powers exercised by the adjutant general pursuant to
9 subsection H of this section expire seventy-two hours after the adjutant
10 general makes a determination under subsection H of this section.

11 J. Pursuant to the second amendment of the United States
12 Constitution and article II, section 26, Constitution of Arizona, and
13 notwithstanding any other law, the emergency powers of the governor, the
14 adjutant general or any other official or person ~~shall~~ DO not ~~be construed~~
15 ~~to~~ allow the imposition of additional restrictions on the lawful
16 possession, transfer, sale, transportation, carrying, storage, display or
17 use of firearms or ammunition or firearms or ammunition components.

18 K. ~~Nothing in~~ This section ~~shall be construed to~~ DOES NOT prohibit
19 the governor, the adjutant general or other officials responding to an
20 emergency from ordering the reasonable movement of stores of ammunition
21 out of the way of dangerous conditions.