

Senate Engrossed

state of emergency; automatic termination

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

SENATE BILL 1084

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 CONDITIONS WITHOUT THE PASSAGE OF A CONCURRENT
7 RESOLUTION BY THE LEGISLATURE CONSENTING TO THE NEW STATE OF
8 EMERGENCY. IF THE GOVERNOR FAILS TO COMPLY WITH THE PROHIBITION IN THIS
9 SUBSECTION, ANY CITIZEN MAY APPLY TO THE SUPERIOR COURT FOR A WRIT OF
10 MANDAMUS TO COMPEL THE GOVERNOR TO COMPLY WITH THIS SUBSECTION.

11 E. During a state of emergency:

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

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

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

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

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

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

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

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

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

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

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

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