

2020 Kansas Statutes

48-925. Powers of governor during state of disaster emergency; authorized orders, limitations; review by state finance council; revocation by legislature; powers of board of county commissioners, orders relating to public health. [See Revisor's Note]

(a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing herein shall restrict the authority of the governor to do so by orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation of this act, the governor may issue orders to exercise the powers conferred by subsection (c) that have the force and effect of law during the period of a state of disaster emergency declared under K.S.A. 48-924(b), and amendments thereto, or as provided in K.S.A. 2020 Supp. 48-924b, and amendments thereto. Within 24 hours of the issuance of any such order, the governor shall call a meeting of the state finance council for the purposes of reviewing such order. Such orders shall be null and void after the period of a state of disaster emergency has ended. Such orders may be revoked at any time by concurrent resolution of the legislature.

(c) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, in addition to any other powers conferred upon the governor by law and subject to the provisions of subsections (d), (e) and (f), the governor may:

- (1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;
- (2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;
- (3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;
- (4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;
- (5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;
- (6) prescribe routes, modes of transportation and destinations in connection with such evacuation;
- (7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;
- (8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;
- (9) make provision for the availability and use of temporary emergency housing;
- (10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and
- (11) perform and exercise such other functions, powers and duties in conformity with the constitution and the bill of rights of the state of Kansas and with the statutes of the state of Kansas, except any regulatory statute specifically suspended under the authority of subsection (c)(1), as are necessary to promote and secure the safety and protection of the civilian population.

(d) The governor shall not have the power or authority to temporarily or permanently seize, or authorize seizure of, any ammunition or to suspend or limit the sale, dispensing or transportation of firearms or ammunition pursuant to subsection

(c)(8) or any other executive authority.

(e) Notwithstanding any provision of this section to the contrary and pursuant to the governor's state of disaster emergency proclamation issued on May 26, 2020, the governor shall not have the power or authority to restrict businesses from operating or to restrict the movement or gathering of individuals. The provisions of this subsection shall expire on September 15, 2020.

(f) The governor shall not have the power under the provisions of the Kansas emergency management act or the provisions of any other law to alter or modify any provisions of the election laws of the state including, but not limited to, the method by which elections are conducted or the timing of such elections.

(g) The governor shall exercise the powers conferred by subsection (c) by issuance of orders under subsection (b). Each order issued pursuant to the authority granted by subsection (b) shall specify the provision or provisions of subsection (c) by specific reference to each paragraph of subsection (c) that confers the power under which the order was issued. The adjutant general, subject to the direction of the governor, shall administer such orders.

(h) The board of county commissioners of any county may issue an order relating to public health that includes provisions that are less stringent than the provisions of an executive order effective statewide issued by the governor. Any board of county commissioners issuing such an order must make the following findings and include such findings in the order:

(1) The board has consulted with the local health officer or other local health officials regarding the governor's executive order;

(2) following such consultation, implementation of the full scope of the provisions in the governor's executive order are not necessary to protect the public health and safety of the county; and

(3) all other relevant findings to support the board's decision.

History: L. 1975, ch. 283, § 5; L. 1994, ch. 248, § 13; L. 2001, ch. 163, § 12; L. 2008, ch. 97, § 2; L. 2020, ch. 1, § 33 (Special Session); June 9.

CAUTION: This version of 48-925 is repealed on and after January 26, 2021.

Following is the text and history of 48-925 to be effective on and after January 26, 2021:

48-925. Powers of governor during state of disaster emergency; authorized orders; revocation by the legislature. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing herein shall restrict the authority of the governor to do so by orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation thereof, the governor may issue orders and proclamations which shall have the force and effect of law during the period of a state of disaster emergency declared under subsection (b) of K.S.A. 48-924, and amendments thereto, and which orders and proclamations shall be null and void thereafter unless ratified by concurrent resolution of the legislature. Such orders and proclamations may be revoked at any time by concurrent resolution of the legislature.

(c) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, and in addition to any other powers conferred upon the governor by law, the governor may:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency

management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of persons and animals to and from a disaster area, the movement of persons and animals within the area and the occupancy by persons and animals of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and

(11) perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population.

(d) The governor shall exercise the powers conferred by subsection (c) by issuance of orders under subsection (b). The adjutant general, subject to the direction of the governor, shall administer such orders.

History: L. 1975, ch. 283, § 5; L. 1994, ch. 248, § 13; L. 2001, ch. 163, § 12; L. 2008, ch. 97, § 2; L. 2020, ch. 1, § 33; L. 2020, ch. 1, § 34 (Special Session); Jan. 26, 2021.