

1 AN ACT relating to emergencies.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 39A.090 is amended to read as follows:

4 **(1)** The Governor may make, amend, and rescind any executive orders as deemed
5 necessary to carry out the provisions of KRS Chapters 39A to 39F.

6 **(2)** ***Executive orders or other directives issued under this chapter by the Governor***
7 ***shall be in effect no longer than thirty (30) days unless an extension is approved***
8 ***by the General Assembly.***

9 ➔Section 2. KRS 39A.100 is amended to read as follows:

10 (1) In the event of the occurrence or threatened or impending occurrence of any of the
11 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, the
12 Governor may declare, in writing, that a state of emergency exists. The Governor
13 shall have and may exercise the following emergency powers during the period in
14 which the state of emergency exists:

15 (a) To enforce all laws, and administrative regulations relating to disaster and
16 emergency response and to assume direct operational control of all disaster
17 and emergency response forces and activities in the Commonwealth;

18 (b) To require state agencies and to request local governments, local agencies, and
19 special districts to respond to the emergency or disaster in the manner
20 directed;

21 (c) To seize, take, or condemn property, excluding firearms and ammunition,
22 components of firearms and ammunition, or a combination thereof, for the
23 protection of the public or at the request of the President, the Armed Forces,
24 or the Federal Emergency Management Agency of the United States,
25 including:

26 1. All means of transportation and communication;

27 2. All stocks of fuel of whatever nature;

- 1 3. Food, clothing, equipment, materials, medicines, and all supplies; and
- 2 4. Facilities, including buildings and plants;
- 3 (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this
- 4 subsection among the inhabitants of the Commonwealth and to account to the
- 5 State Treasurer for any funds received for the property;
- 6 (e) To make compensation for the property seized, taken, or condemned under
- 7 paragraph (c) of this subsection;
- 8 (f) To exclude all nonessential, unauthorized, disruptive, or otherwise
- 9 uncooperative personnel from the scene of the emergency, and to command
- 10 those persons or groups assembled at the scene to disperse. A person who
- 11 refuses to leave an area in which a written order of evacuation has been issued
- 12 in accordance with a written declaration of emergency or a disaster may be
- 13 forcibly removed to a place of safety or shelter, or may, if this is resisted, be
- 14 arrested by a peace officer. Forcible removal or arrest shall not be exercised as
- 15 options until all reasonable efforts for voluntary compliance have been
- 16 exhausted;
- 17 (g) To declare curfews and establish their limits;
- 18 (h) To prohibit or limit the sale or consumption of goods, excluding firearms and
- 19 ammunition, components of firearms and ammunition, or a combination
- 20 thereof, or commodities for the duration of the emergency;
- 21 (i) To grant emergency authority to pharmacists pursuant to KRS 315.500, for the
- 22 duration of the emergency;
- 23 (j) Except as prohibited by this section or other law, to perform and exercise
- 24 other functions, powers, and duties deemed necessary to promote and secure
- 25 the safety and protection of the civilian population;
- 26 (k) To request any assistance from agencies of the United States as necessary and
- 27 appropriate to meet the needs of the people of the Commonwealth; and

- 1 (1) Upon the recommendation of the Secretary of State, to declare by executive
2 order a different time, place, or manner for holding elections in an election
3 area for which a state of emergency has been declared for part or all of the
4 election area. The election shall be held within thirty-five (35) days from the
5 date of the suspended or delayed election. The State Board of Elections shall
6 establish procedures for election officials to follow. Any procedures
7 established under this paragraph shall be subject to the approval of the
8 Secretary of State and the Governor by respective executive orders. *The*
9 *executive order shall remain in effect regardless of the time limitations in*
10 *Section 1 of this Act and shall not be changed except by action of the*
11 *General Assembly.*
- 12 (2) In the event of the occurrence or threatened or impending occurrence of any of the
13 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in
14 the judgment of a local chief executive officer is of such severity or complexity as
15 to require the exercise of extraordinary emergency measures, the county
16 judge/executive of a county other than an urban-county government, or mayor of a
17 city or urban-county government, or chief executive of other local governments or
18 their designees as provided by ordinance of the affected county, city, or urban-
19 county may declare in writing that a state of emergency exists, and thereafter,
20 subject to any orders of the Governor, shall have and may exercise for the period as
21 the state of emergency exists or continues, the following emergency powers:
- 22 (a) To enforce all laws and administrative regulations relating to disaster and
23 emergency response and to direct all local disaster and emergency response
24 forces and operations in the affected county, city, urban-county, or charter
25 county;
- 26 (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative
27 personnel from the scene of the emergency, and to command persons or

1 groups of persons at the scene to disperse. A person who refuses to leave an
2 area in which a written order of evacuation has been issued in accordance with
3 a written declaration of emergency or a disaster may be forcibly removed to a
4 place of safety or shelter, or may, if this is resisted, be arrested by a peace
5 officer. Forcible removal or arrest shall not be exercised as options until all
6 reasonable efforts for voluntary compliance have been exhausted;

7 (c) To declare curfews and establish their limits;

8 (d) To order immediate purchase or rental of, contract for, or otherwise procure,
9 without regard to procurement codes or budget requirements, the goods and
10 services essential for protection of public health and safety or to maintain or to
11 restore essential public services; and

12 (e) To request emergency assistance from any local government or special district
13 and, through the Governor, to request emergency assistance from any state
14 agency and to initiate requests for federal assistance as are necessary for
15 protection of public health and safety or for continuation of essential public
16 services.

17 (3) Nothing in this section shall be construed to allow any governmental entity to
18 impose additional restrictions on the lawful possession, transfer, sale, transport,
19 carrying, storage, display, or use of firearms and ammunition or components of
20 firearms and ammunition.

21 ➔Section 3. KRS 367.374 is amended to read as follows:

22 (1) (a) When a Condition Red has been declared by the United States Department of
23 Homeland Security under the Homeland Security Advisory System or the
24 Governor has declared a state of emergency under KRS 39A.100, the
25 Governor may implement this section by executive order for a period of
26 fifteen (15) days from notification of implementation, as required by KRS
27 367.376. The order implementing this section shall be limited to the

1 geographical area indicated in the declaration of emergency. The Governor
2 may terminate or limit the scope of the order at any time.

3 (b) No person shall sell, rent, or offer to sell or rent, regardless of whether an
4 actual sale or rental occurs, a good or service listed in this paragraph or any
5 repair or reconstruction service for a price which is grossly in excess of the
6 price prior to the declaration and unrelated to any increased cost to the seller.

7 Goods and services to which this section applies are:

- 8 1. Consumer food items;
- 9 2. Goods or services used for emergency cleanup;
- 10 3. Emergency supplies;
- 11 4. Medical supplies;
- 12 5. Home heating oil;
- 13 6. Building materials;
- 14 7. Housing;
- 15 8. Transportation, freight, and storage services; and
- 16 9. Gasoline or other motor fuels.

17 (c) A person's price does not violate this subsection if it is:

- 18 1. Related to an additional cost imposed by a supplier of a good or other
19 costs of providing the good or service, including an additional cost for
20 labor or materials used to provide a service;
- 21 2. Ten percent (10%) or less above the price prior to the declaration;
- 22 3. Ten percent (10%) or less above the sum of the person's costs and
23 normal markup for a good or service;
- 24 4. Generally consistent with fluctuations in applicable commodity,
25 regional, national, or international markets, or seasonal fluctuations; or
- 26 5. A contract price, or the result of a price formula, established prior to the
27 order implementing this subsection.

1 (d) Whether a price violates this subsection is a question of law. In determining if
2 a violation of this subsection has occurred, the court shall consider all relevant
3 circumstances, including prices prevailing in the locality at that time.

4 (2) The provisions of this section may be extended for ~~an~~^{up to three (3)} additional
5 fifteen (15) day ~~period~~^{periods} by the Governor, if necessary to protect the lives,
6 property, or welfare of the citizens. **Further extensions shall be made by the**
7 **General Assembly.**

8 (3) If a person sold or rented a good or service listed in subsection (1) of this section at
9 a reduced price in the thirty (30) days prior to the Governor's implementation of this
10 section, the price at which that person usually sells or rents the good or service in
11 the area for which the declaration was issued shall be used in determining if the
12 person is in violation of this section.

13 (4) If a person did not sell or rent or offer to sell or rent a good or service listed in
14 subsection (1) of this section prior to the Governor's implementation of this section,
15 the price at which a good or service was generally available in the area for which
16 the declaration was issued shall be used in determining if the person is in violation
17 of this section.