

1 AN ACT relating to religious freedom.

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

3 ➔Section 1. KRS 39A.100 is amended to read as follows:

- 4 (1) In the event of the occurrence or threatened or impending occurrence of any of the
5 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, the
6 Governor may declare, in writing, that a state of emergency exists. The Governor
7 shall have and may exercise the following emergency powers during the period in
8 which the state of emergency exists:
- 9 (a) To enforce all laws, and administrative regulations relating to disaster and
10 emergency response and to assume direct operational control of all disaster
11 and emergency response forces and activities in the Commonwealth;
 - 12 (b) To require state agencies and to request local governments, local agencies, and
13 special districts to respond to the emergency or disaster in the manner
14 directed;
 - 15 (c) To seize, take, or condemn property, excluding firearms and ammunition,
16 components of firearms and ammunition, or a combination thereof, for the
17 protection of the public or at the request of the President, the Armed Forces,
18 or the Federal Emergency Management Agency of the United States,
19 including:
 - 20 1. All means of transportation and communication;
 - 21 2. All stocks of fuel of whatever nature;
 - 22 3. Food, clothing, equipment, materials, medicines, and all supplies; and
 - 23 4. Facilities, including buildings and plants;
 - 24 (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this
25 subsection among the inhabitants of the Commonwealth and to account to the
26 State Treasurer for any funds received for the property;
 - 27 (e) To make compensation for the property seized, taken, or condemned under

1 paragraph (c) of this subsection;

2 (f) To exclude all nonessential, unauthorized, disruptive, or otherwise
3 uncooperative personnel from the scene of the emergency, and to command
4 those persons or groups assembled at the scene to disperse. A person who
5 refuses to leave an area in which a written order of evacuation has been issued
6 in accordance with a written declaration of emergency or a disaster may be
7 forcibly removed to a place of safety or shelter, or may, if this is resisted, be
8 arrested by a peace officer. Forcible removal or arrest shall not be exercised as
9 options until all reasonable efforts for voluntary compliance have been
10 exhausted;

11 (g) To declare curfews and establish their limits;

12 (h) To prohibit or limit the sale or consumption of goods, excluding firearms and
13 ammunition, components of firearms and ammunition, or a combination
14 thereof, or commodities for the duration of the emergency;

15 (i) To grant emergency authority to pharmacists pursuant to KRS 315.500, for the
16 duration of the emergency;

17 (j) Except as prohibited by this section or other law, to perform and exercise
18 other functions, powers, and duties deemed necessary to promote and secure
19 the safety and protection of the civilian population;

20 (k) To request any assistance from agencies of the United States as necessary and
21 appropriate to meet the needs of the people of the Commonwealth; and

22 (l) Upon the recommendation of the Secretary of State, to declare by executive
23 order a different time, place, or manner for holding elections in an election
24 area for which a state of emergency has been declared for part or all of the
25 election area. The election shall be held within thirty-five (35) days from the
26 date of the suspended or delayed election. The State Board of Elections shall
27 establish procedures for election officials to follow. Any procedures

1 established under this paragraph shall be subject to the approval of the
2 Secretary of State and the Governor by respective executive orders.

3 (2) In the event of the occurrence or threatened or impending occurrence of any of the
4 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in
5 the judgment of a local chief executive officer is of such severity or complexity as
6 to require the exercise of extraordinary emergency measures, the county
7 judge/executive of a county other than an urban-county government, or mayor of a
8 city or urban-county government, or chief executive of other local governments or
9 their designees as provided by ordinance of the affected county, city, or urban-
10 county may declare in writing that a state of emergency exists, and thereafter,
11 subject to any orders of the Governor, shall have and may exercise for the period as
12 the state of emergency exists or continues, the following emergency powers:

13 (a) To enforce all laws and administrative regulations relating to disaster and
14 emergency response and to direct all local disaster and emergency response
15 forces and operations in the affected county, city, urban-county, or charter
16 county;

17 (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative
18 personnel from the scene of the emergency, and to command persons or
19 groups of persons at the scene to disperse. A person who refuses to leave an
20 area in which a written order of evacuation has been issued in accordance with
21 a written declaration of emergency or a disaster may be forcibly removed to a
22 place of safety or shelter, or may, if this is resisted, be arrested by a peace
23 officer. Forcible removal or arrest shall not be exercised as options until all
24 reasonable efforts for voluntary compliance have been exhausted;

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

26 (d) To order immediate purchase or rental of, contract for, or otherwise procure,
27 without regard to procurement codes or budget requirements, the goods and

1 services essential for protection of public health and safety or to maintain or to
2 restore essential public services; and

3 (e) To request emergency assistance from any local government or special district
4 and, through the Governor, to request emergency assistance from any state
5 agency and to initiate requests for federal assistance as are necessary for
6 protection of public health and safety or for continuation of essential public
7 services.

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

12 **(4) Nothing in this section shall be construed to allow any governmental entity to**
13 **substantially burden a person's freedom of religion or to avoid or suspend the**
14 **requirements of Section 3 of this Act.**

15 ➔Section 2. KRS 39A.180 is amended to read as follows:

16 (1) The political subdivisions of the state and other agencies designated or appointed by
17 the Governor may make, amend, and rescind orders and promulgate administrative
18 regulations necessary for disaster and emergency response purposes, and to
19 supplement the carrying out of the provisions of this chapter, if not inconsistent
20 with any orders or administrative regulations promulgated by the Governor or by
21 any state agency exercising a power delegated to it by the Governor.

22 (2) All written orders and administrative regulations promulgated by the Governor, the
23 director, or by any political subdivision or other agency authorized by KRS
24 Chapters 39A to 39F to make orders and promulgate administrative regulations,
25 shall have the full force of law, when, if issued by the Governor, the director, or any
26 state agency, a copy is filed with the Legislative Research Commission, or, if
27 promulgated by an agency or political subdivision of the state, when filed in the

1 office of the clerk of that political subdivision or agency. All existing laws,
2 ordinances, and administrative regulations inconsistent with the provisions of KRS
3 Chapters 39A to 39F, or of any order or administrative regulation issued under the
4 authority of KRS Chapters 39A to 39F, shall be suspended during the period of time
5 and to the extent that the conflict exists.

6 (3) The law enforcement authorities of the state and of its counties, urban-counties,
7 charter counties, and cities shall enforce the written orders and administrative
8 regulations issued pursuant to KRS Chapters 39A to 39F.

9 **(4) Nothing in this section shall be construed to allow any governmental entity to**
10 **substantially burden a person's freedom of religion or to avoid or suspend the**
11 **requirements of Section 3 of this Act.**

12 ➔Section 3. KRS 446.350 is amended to read as follows:

13 **(1)** Government shall not substantially burden a person's freedom of religion. The right
14 to act or refuse to act in a manner motivated by a sincerely held religious belief may
15 not be substantially burdened unless the government proves by clear and convincing
16 evidence that it has a compelling governmental interest in infringing the specific act
17 or refusal to act and has used the least restrictive means to further that interest. A
18 "burden" shall include indirect burdens such as withholding benefits, assessing
19 penalties, or an exclusion from programs or access to facilities.

20 **(2) The Commonwealth waives its sovereign immunity as to any claim seeking**
21 **equitable relief, as well as reasonable attorney fees and costs, brought in state or**
22 **federal court under this section to adjudicate or decree a violation of this section.**
23 **The Commonwealth shall not be liable for any monetary damages arising from**
24 **such claims, except as provided in subsection (3) of this section.**

25 **(3) In any action or proceeding under subsection (2) of this section, the court shall**
26 **award damages in the amount of ten dollars (\$10) for each day the government**
27 **violates this section and reasonable attorney fees and costs.**