

JAN 22 2021

A BILL FOR AN ACT

RELATING TO SMOKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the risk of harm to
2 people with respiratory diseases and multiple chemical
3 sensitivities may be exacerbated and severe during periods of
4 emergencies that require residents to shelter in place at home
5 due to a pandemic. During a stay-at-home order in particular,
6 the health of people with a chemical sensitivity to tobacco
7 smoke can be imperiled, especially in multi-unit residences.

8 The legislature further finds that the governor's emergency
9 powers to require residents to stay at home do not authorize the
10 governor to mandate mitigation measures to protect persons with
11 respiratory diseases and multiple chemical sensitivities.

12 The purpose of this Act is to allow the governor to
13 prohibit smoking in multi-unit residences during an emergency
14 order to stay at home.

15 SECTION 2. Section 127A-13, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:



1 "(a) In the event of a state of emergency declared by the
2 governor pursuant to section 127A-14, the governor may exercise
3 the following additional powers pertaining to emergency
4 management during the emergency period:

5 (1) Provide for and require the quarantine or segregation
6 of persons who are affected with or believed to have
7 been exposed to any infectious, communicable, or other
8 disease that is, in the governor's opinion, dangerous
9 to the public health and safety, or persons who are
10 the source of other contamination, in any case where,
11 in the governor's opinion, the existing laws are not
12 adequate to assure the public health and safety[+],
13 and in the event that during the emergency period the
14 governor requires persons to stay at home, the
15 governor may order mitigating measures including
16 prohibiting smoking in multi-unit residences; provide
17 for the care and treatment of the persons; supplement
18 the provisions of sections 325-32 to 325-38 concerning
19 compulsory immunization programs; provide for the
20 isolation or closing of property which is a source of
21 contamination or is in a dangerous condition in any



1 case where, in the governor's opinion, the existing
2 laws are not adequate to assure the public health and
3 safety, and designate as public nuisances acts,
4 practices, conduct, or conditions that are dangerous
5 to the public health or safety or to property;
6 authorize that public nuisances be summarily abated
7 and, if need be, that the property be destroyed, by
8 any police officer or authorized person, or provide
9 for the cleansing or repair of property, and if the
10 cleansing or repair is to be at the expense of the
11 owner, the procedure therefor shall follow as nearly
12 as may be the provisions of section 322-2, which shall
13 be applicable; and further, authorize without the
14 permission of the owners or occupants, entry on
15 private premises for any such purposes;

- 16 (2) Relieve hardships and inequities, or obstructions to
17 the public health, safety, or welfare, found by the
18 governor to exist in the laws and to result from the
19 operation of federal programs or measures taken under
20 this chapter, by suspending the laws, in whole or in
21 part, or by alleviating the provisions of laws on such



1 terms and conditions as the governor may impose,
2 including licensing laws, quarantine laws, and laws
3 relating to labels, grades, and standards;

4 (3) Suspend any law that impedes or tends to impede or be
5 detrimental to the expeditious and efficient execution
6 of, or to conflict with, emergency functions,
7 including laws which by this chapter specifically are
8 made applicable to emergency personnel;

9 (4) Suspend the provisions of any regulatory law
10 prescribing the procedures for out-of-state utilities
11 to conduct business in the State including any
12 licensing laws applicable to out-of-state utilities or
13 their respective employees, as well as any order,
14 rule, or regulation of any state agency, if strict
15 compliance with the provisions of any such law, order,
16 rule, or regulation would in any way prevent, hinder,
17 or delay necessary action of a state utility in coping
18 with the emergency or disaster with assistance that
19 may be provided under a mutual assistance agreement;

20 (5) In the event of disaster or emergency beyond local
21 control, or an event which, in the opinion of the



1 governor, is such as to make state operational control
2 necessary, or upon request of the local entity, assume
3 direct operational control over all or any part of the
4 emergency management functions within the affected
5 area;

6 (6) Shut off water mains, gas mains, electric power
7 connections, or suspend other services, and, to the
8 extent permitted by or under federal law, suspend
9 electronic media transmission;

10 (7) Direct and control the mandatory evacuation of the
11 civilian population;

12 (8) Exercise additional emergency functions to the extent
13 necessary to prevent hoarding, waste, or destruction
14 of materials, supplies, commodities, accommodations,
15 facilities, and services, to effectuate equitable
16 distribution thereof, or to establish priorities
17 therein as the public welfare may require; to
18 investigate; and notwithstanding any other law to the
19 contrary, to regulate or prohibit, by means of
20 licensing, rationing, or otherwise, the storage,
21 transportation, use, possession, maintenance,



1 furnishing, sale, or distribution thereof, and any
2 business or any transaction related thereto;

3 (9) Suspend section 8-1, relating to state holidays,
4 except the last paragraph relating to holidays
5 declared by the president, which shall remain
6 unaffected, and in the event of the suspension, the
7 governor may establish state holidays by proclamation;

8 (10) Adjust the hours for voting to take into consideration
9 the working hours of the voters during the emergency
10 period, and suspend those provisions of section 11-131
11 that fix the hours for voting, and fix other hours by
12 stating the same in the election proclamation or
13 notice, as the case may be;

14 (11) Assure the continuity of service by critical
15 infrastructure facilities, both publicly and privately
16 owned, by regulating or, if necessary to the
17 continuation of the service thereof, by taking over
18 and operating the same; and

19 (12) Except as provided in section 134-7.2, whenever in the
20 governor's opinion, the laws of the State do not
21 adequately provide for the common defense, public



1 health, safety, and welfare, investigate, regulate, or
2 prohibit the storage, transportation, use, possession,
3 maintenance, furnishing, sale, or distribution of, as
4 well as any transaction related to, explosives,
5 firearms, and ammunition, inflammable materials and
6 other objects, implements, substances, businesses, or
7 services of a hazardous or dangerous character, or
8 particularly capable of misuse, or obstructive of or
9 tending to obstruct law enforcement, emergency
10 management, or military operations, including
11 intoxicating liquor and the liquor business; and
12 authorize the seizure and forfeiture of any such
13 objects, implements, or substances unlawfully
14 possessed, as provided in this chapter."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.

18
INTRODUCED BY:



S.B. NO. 553

Report Title:

Emergency Order; Residential Homes; Smoking; Governor

Description:

Allows the governor to order mitigating measures including prohibiting smoking in multi-unit residences during an emergency order to stay at home.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

