
A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

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

1 SECTION 1. The legislature finds that the emergence of
2 coronavirus disease 2019 (COVID-19) and its variants created a
3 great challenge to global health, the economy, and our way of
4 life. The Governor and county mayors have had to exercise their
5 emergency powers under chapter 127A, Hawaii Revised Statutes, to
6 impose rules aimed to control the spread of COVID-19. The
7 enforcement of those rules has been critical to efforts to limit
8 the spread of COVID-19, protect the health and safety of the
9 community, manage medical resources, and promote economic
10 recovery. The COVID-19 pandemic has highlighted the importance
11 of clear legal frameworks for State and county emergency
12 management to ensure the State and counties are ready for any
13 type of emergency. The purpose of this Act is to clarify state
14 and county emergency management authority, ensure effective and
15 adaptable emergency responses, and further the goals of
16 transparency and democratic accountability within our
17 constitutional system.



1 The legislature finds that chapter 127A, Hawaii Revised
2 Statutes, should clearly specify and articulate the bases for
3 emergency actions. To that end, this Act amends chapter 127A to
4 require specificity when suspending provisions of law during an
5 emergency; clarify when and how Hawaii's emergency management
6 system involves coordination between state and county emergency
7 management functions; and clarify the legal framework governing
8 the extension and termination of states of emergency.

9 SECTION 2. Section 127A-1, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) It is the intent of the legislature to provide for
12 and confer comprehensive powers for the purposes stated herein.
13 This chapter shall be liberally construed to effectuate its
14 purposes; provided that this chapter shall not be construed as
15 conferring any power or permitting any action [~~which~~] that is
16 inconsistent with the Constitution and laws of the United
17 States[~~7~~] or the Hawaii State Constitution, but, in so
18 construing this chapter, due consideration shall be given to the
19 circumstances as they exist from time to time. This chapter
20 shall not be deemed to have been amended by any act hereafter



1 enacted at the same or any other session of the legislature,
2 unless this chapter is amended by express reference."

3 SECTION 3. Section 127A-2, Hawaii Revised Statutes, is
4 amended by adding a new definition to be appropriately inserted
5 and to read as follows:

6 "Severe weather warning" means the issuance by the
7 National Weather Service of a public notification that a
8 dangerous weather condition exists that could impact the State,
9 or any portion of it, within a specified period of time. This
10 term includes but is not limited to warnings of coastal
11 inundation, high surf, flash flooding, tsunami, or hurricane."

12 SECTION 4. Section 127A-13, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§127A-13 Additional powers in an emergency period. (a)**
15 In the event of a state of emergency declared by the governor
16 pursuant to section 127A-14, the governor may exercise the
17 following additional powers pertaining to emergency management
18 during the emergency period:

19 (1) Provide for and require the quarantine or segregation
20 of persons who are affected with or believed to have
21 been exposed to any infectious, communicable, or other



1 disease that is, in the governor's opinion, dangerous
2 to the public health and safety, or persons who are
3 the source of other contamination, in any case where,
4 in the governor's opinion, the existing laws are not
5 adequate to assure the public health and safety;
6 provide for the care and treatment of the persons;
7 supplement the provisions of sections 325-32 to 325-38
8 concerning compulsory immunization programs; provide
9 for the isolation or closing of property [~~which~~] that
10 is a source of contamination or is in a dangerous
11 condition in any case where, in the governor's
12 opinion, the existing laws are not adequate to assure
13 the public health and safety, and designate as public
14 nuisances acts, practices, conduct, or conditions that
15 are dangerous to the public health or safety or to
16 property; authorize that public nuisances be summarily
17 abated and, if need be, that the property be
18 destroyed, by any police officer or authorized person,
19 or provide for the cleansing or repair of property,
20 and if the cleansing or repair is to be at the expense
21 of the owner, the procedure therefor shall follow as



1 nearly as may be the provisions of section 322-2,
2 which shall be applicable; and further, authorize
3 without the permission of the owners or occupants,
4 entry on private premises for any such purposes;

5 (2) Relieve hardships and inequities, or obstructions to
6 the public health, safety, or welfare, found by the
7 governor to exist in the laws and to result from the
8 operation of federal programs or measures taken under
9 this chapter, by suspending the laws, in whole or in
10 part, or by alleviating, ~~[the provisions of laws on~~
11 ~~such]~~ subject to terms and conditions [as] that the
12 governor may ~~[impose]~~ specify, the provisions of laws,
13 including licensing laws, quarantine laws, and laws
14 relating to labels, grades, and standards;

15 (3) Suspend any law that impedes or tends to impede or be
16 detrimental to the expeditious and efficient execution
17 of, or to conflict with, emergency functions,
18 including laws ~~[which]~~ that by this chapter
19 specifically are made applicable to emergency
20 personnel; provided that any suspension of law shall
21 be no broader and last no longer than the governor



1 deems necessary for the execution of emergency
2 management functions, and any suspension of law shall
3 identify the section of law suspended and, for each
4 section, shall both specify the emergency management
5 functions facilitated and justify the suspension based
6 on protecting the public health, safety, and welfare;

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

18 (5) In the event of disaster or emergency beyond local
19 control, or an event which, in the opinion of the
20 governor, is such as to make state operational control
21 or coordination necessary, or upon request of the



1 [~~local entity,~~] county, assume direct operational
2 control over all or any part of the emergency
3 management functions within the affected area; and
4 notwithstanding sections 127A-14 and 127A-25, require
5 the county to obtain the governor's approval, or the
6 approval of the director of the Hawaii emergency
7 management agency, prior to issuing any emergency
8 order, rule, or proclamation under this chapter;

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

13 (7) Direct and control the mandatory evacuation of the
14 civilian population;

15 (8) Exercise additional emergency functions to the extent
16 necessary to prevent hoarding, waste, or destruction
17 of materials, supplies, commodities, accommodations,
18 facilities, and services, to effectuate equitable
19 distribution thereof, or to establish priorities
20 therein as the public welfare may require; to
21 investigate; and notwithstanding any other law to the



1 contrary, to regulate or prohibit, by means of
2 licensing, rationing, or otherwise, the storage,
3 transportation, use, possession, maintenance,
4 furnishing, sale, or distribution thereof, and any
5 business or any transaction related thereto;

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

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

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



1 (12) Except as provided in section 134-7.2, whenever in the
2 governor's opinion, the laws of the State do not
3 adequately provide for the common defense, public
4 health, safety, and welfare, investigate, regulate, or
5 prohibit the storage, transportation, use, possession,
6 maintenance, furnishing, sale, or distribution of, as
7 well as any transaction related to, explosives,
8 firearms, and ammunition, inflammable materials and
9 other objects, implements, substances, businesses, or
10 services of a hazardous or dangerous character, or
11 particularly capable of misuse, or obstructive of or
12 tending to obstruct law enforcement, emergency
13 management, or military operations, including
14 intoxicating liquor and the liquor business; and
15 authorize the seizure and forfeiture of any such
16 objects, implements, or substances unlawfully
17 possessed, as provided in this chapter.

18 (b) In the event of a local state of emergency declared by
19 the mayor pursuant to [†]section[†] 127A-14, the mayor may
20 exercise the following additional powers pertaining to emergency
21 management during the emergency period:



- 1 (1) Relieve hardships and inequities, or obstructions to
2 the public health, safety, or welfare, found by the
3 mayor to exist in the laws of the county and to result
4 from the operation of federal programs or measures
5 taken under this chapter, by suspending the county
6 laws, in whole or in part, or by alleviating, ~~[the~~
7 ~~provisions of county laws on such]~~ subject to terms
8 and conditions ~~[as]~~ that the mayor may ~~[impose]~~
9 specify, the provisions of county laws, including
10 county licensing laws~~[7]~~ and county laws relating to
11 labels, grades, and standards;
- 12 (2) Suspend any county law that impedes or tends to impede
13 or be detrimental to the expeditious and efficient
14 execution of, or to conflict with, emergency
15 functions, including laws ~~[which]~~ that by this chapter
16 specifically are made applicable to emergency
17 personnel; provided that any suspension of law shall
18 be no broader and last no longer than the mayor deems
19 necessary for the execution of emergency management
20 functions, and any suspension of law shall identify
21 the section of law suspended and, for each section,



1 shall both specify the emergency management functions
2 facilitated and justify the suspension based on
3 protecting the public health, safety, and welfare;

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

8 (4) Direct and control the mandatory evacuation of the
9 civilian population; and

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



1 SECTION 5. Section 127A-14, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§127A-14 State of emergency. (a) The governor may
4 declare the existence of a state of emergency in the State by
5 proclamation if the governor finds that an emergency or disaster
6 has occurred or that there is imminent danger or threat of an
7 emergency or disaster in any portion of the State.

8 (b) A mayor may declare the existence of a local state of
9 emergency in the county by proclamation if the mayor finds that
10 an emergency or disaster has occurred or that there is imminent
11 danger or threat of an emergency or disaster in any portion of
12 the county.

13 (c) The governor or mayor shall be the sole judge of the
14 existence of the danger, threat, or circumstances giving rise to
15 a declaration, extension, or termination of a state of emergency
16 in the State or a local state of emergency in the county, as
17 applicable. This section shall not limit the power and
18 authority of the governor under section 127A-13(a)(5).

19 (d) A state of emergency and a local state of emergency
20 shall terminate automatically sixty days after the issuance of a
21 proclamation of a state of emergency or local state of



1 emergency, respectively, [~~or~~] unless extended or terminated by a
2 separate or supplementary proclamation of the governor or
3 mayor [~~, whichever occurs first~~]. The governor or mayor shall
4 proclaim the termination of a state of emergency or local state
5 of emergency, respectively, at the earliest possible date that
6 conditions warrant.

7 (e) The legislature may, by an affirmative vote of two-
8 thirds of the members to which each house is entitled, terminate
9 a state of emergency, in part or in whole, declared by the
10 governor pursuant to this section."

11 SECTION 6. Section 127A-30, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) The prohibitions under subsection (a) shall remain in
14 effect until twenty-four hours after the severe weather warning
15 is canceled by the National Weather Service; or in the event of
16 a declaration, [~~the later of a date specified by the governor or~~
17 ~~mayor in the declaration or ninety-six~~] seventy-two hours after
18 the effective date and time of the declaration, unless such
19 prohibition is identified and continued [~~by a supplementary~~
20 ~~declaration issued~~] by the governor or mayor [~~-~~] in the
21 proclamation or any supplementary proclamation. Any



1 proclamation issued under this chapter that fails to state the
2 time at which it will take effect, shall take effect at twelve
3 noon of the day on which it takes effect."

4 SECTION 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Emergency Management

Description:

Amends chapter 127A, Hawaii Revised Statutes (HRS), to clarify State and local authority, ensure effective and adaptable emergency response, and further the goals of transparency and democratic accountability. Clarifies that powers granted for emergency purposes shall not be construed as permitting actions inconsistent with the state constitution. Amends chapter 127A, HRS, to provide for greater clarity and specificity regarding the scope of suspensions of law. Clarifies that Hawaii's emergency management system includes coordination between State and county emergency management functions, where appropriate. Clarifies the legal framework governing the extension and termination of emergency periods. Adds the definition of the term "severe weather warning" as used in section 127A-30, HRS. Allows the Legislature to, by an affirmative vote of two-thirds of the members to which each house is entitled, terminate a state of emergency, in part or in whole, declared by the Governor. (SD1)

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

