

ACT 237

H.B. NO. 2581

A Bill for an Act Relating to Emergency Management.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the power of the governor or a mayor to suspend the transmission of electronic media during a state of emergency is overly broad and vague. Electronic media could include not only all radio and television broadcasts, but also could potentially include text messages, emails, and posts to social media platforms, which would restrain lawful free speech and publication and violate the First Amendment of the United States Constitution.

The purpose of this Act is to remove the ability of the governor or a mayor to suspend electronic media transmission during a state of emergency.

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

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

- (1) Provide for and require the quarantine or segregation of persons who are affected with or believed to have been exposed to any infectious, communicable, or other disease that is, in the governor’s opinion, dangerous to the public health and safety, or persons who are the source of other contamination, in any case where, in the governor’s opinion, the existing laws are not adequate to assure the public health and safety; provide for the care and treatment of the persons; supplement the provisions of sections 325-32 to 325-38 concerning compulsory immunization programs; provide for the isolation or closing of property [which] that is a source of contamination or is in a dangerous condition in any case where, in the governor’s opinion, the existing laws are not adequate to assure the public health and safety, and designate as public nuisances acts, practices, conduct,

- or conditions that are dangerous to the public health or safety or to property; authorize that public nuisances be summarily abated and, if need be, that the property be destroyed~~[-]~~ by any police officer or authorized person, or provide for the cleansing or repair of property, and if the cleansing or repair is to be at the expense of the owner, the procedure therefor shall follow as nearly as may be the provisions of section 322-2, which shall be applicable; and further, authorize without the permission of the owners or occupants, entry on private premises for any ~~[such]~~ of these purposes;
- (2) Relieve hardships and inequities, or obstructions to the public health, safety, or welfare, found by the governor to exist in the laws and to result from the operation of federal programs or measures taken under this chapter, by suspending the laws, in whole or in part, or by alleviating the provisions of laws on ~~[such]~~ terms and conditions as the governor may impose, including licensing laws, quarantine laws, and laws relating to labels, grades, and standards;
 - (3) Suspend any law that impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws ~~[which]~~ that by this chapter specifically are made applicable to emergency personnel;
 - (4) Suspend the provisions of any regulatory law prescribing the procedures for out-of-state utilities to conduct business in the State including any licensing laws applicable to out-of-state utilities or their respective employees, as well as any order, rule, or regulation of any state agency, if strict compliance with the provisions of any ~~[such]~~ law, order, rule, or regulation would in any way prevent, hinder, or delay necessary action of a state utility in coping with the emergency or disaster with assistance that may be provided under a mutual assistance agreement;
 - (5) In the event of disaster or emergency beyond local control, or an event ~~[which,]~~ that in the opinion of the governor, ~~[is such as to make]~~ renders state operational control necessary, or upon request of the local entity, assume direct operational control over all or any part of the emergency management functions within the affected area;
 - (6) Shut off water mains, gas mains, or electric power connections, or suspend other services~~[-, and, to the extent permitted by or under federal law, suspend electronic media transmission];~~
 - (7) Direct and control the mandatory evacuation of the civilian population;
 - (8) Exercise additional emergency functions to the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities therein as the public welfare may require; to investigate; and notwithstanding any other law to the contrary, to regulate or prohibit, by means of licensing, rationing, or otherwise, the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution thereof, and any business or any transaction related thereto;
 - (9) Suspend section 8-1, relating to state holidays, except the last paragraph relating to holidays declared by the president, which shall remain unaffected, and in the event of the suspension, the governor may establish state holidays by proclamation;

- (10) Adjust the hours for voting to take into consideration the working hours of the voters during the emergency period, and suspend those provisions of section 11-131 that fix the hours for voting, and fix other hours by stating the same in the election proclamation or notice, as the case may be;
- (11) Assure the continuity of service by critical infrastructure facilities, both publicly and privately owned, by regulating or, if necessary to the continuation of the service thereof, by taking over and operating the same; and
- (12) Except as provided in section 134-7.2, whenever in the governor's opinion, the laws of the State do not adequately provide for the common defense, public health, safety, and welfare, investigate, regulate, or prohibit the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution of, as well as any transaction related to, explosives, firearms, and ammunition, inflammable materials and other objects, implements, substances, businesses, or services of a hazardous or dangerous character, or particularly capable of misuse, or obstructive of or tending to obstruct law enforcement, emergency management, or military operations, including intoxicating liquor and the liquor business; and authorize the seizure and forfeiture of any ~~such~~ objects, implements, or substances unlawfully possessed, as provided in this chapter.
 - (b) In the event of a local state of emergency declared by the mayor pursuant to ~~section~~ 127A-14, the mayor may exercise the following additional powers pertaining to emergency management during the emergency period:
 - (1) Relieve hardships and inequities, or obstructions to the public health, safety, or welfare, found by the mayor to exist in the laws of the county and to result from the operation of federal programs or measures taken under this chapter, by suspending the county laws, in whole or in part, or by alleviating the provisions of county laws on ~~such~~ terms and conditions as the mayor may impose, including county licensing laws, and county laws relating to labels, grades, and standards;
 - (2) Suspend any county law that impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws ~~which~~ that by this chapter specifically are made applicable to emergency personnel;
 - (3) Shut off water mains, gas mains, or electric power connections, or suspend other services; ~~and, to the extent permitted by or under federal law, suspend electronic media transmission;~~
 - (4) Direct and control the mandatory evacuation of the civilian population; and
 - (5) Exercise additional emergency functions, to the extent necessary to prevent hoarding, waste, or destruction of materials, supplies, commodities, accommodations, facilities, and services, to effectuate equitable distribution thereof, or to establish priorities therein as the public welfare may require; to investigate; and any other county law to the contrary notwithstanding, to regulate or prohibit, by means of licensing, rationing, or otherwise, the storage, transportation, use, possession, maintenance, furnishing, sale, or distribution thereof, and any business or any transaction related thereto."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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SECTION 4. This Act shall take effect upon its approval.
(Approved July 9, 2024.)