

Code of Alabama - Title 31: Military Affairs and Civil Defense - Section 31-9-8 - Emergency powers of Governor

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Section 31-9-8 - Emergency powers of Governor.

(a) The provisions of this section shall be operative only during the existence of a state of emergency, referred to hereinafter as one of the states of emergency defined in Section 31-9-3. The existence of a state of emergency may be proclaimed by the Governor as provided in this subsection or by joint resolution of the Legislature if the Governor in the proclamation or the Legislature in the resolution finds that an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural disaster of major proportions or a public health emergency has occurred or is reasonably anticipated in the immediate future within this state and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. If the state of emergency affects less than the entire state, the Governor or the Legislature shall designate in the proclamation or resolution those counties to which the state of emergency applies. The emergency, whether proclaimed by the Governor or by the Legislature, shall terminate 60 days after the date on which it was proclaimed unless the Governor extends the emergency by proclamation or the Legislature extends the emergency by a joint resolution. Upon proclamation by the Governor of a state of emergency, the Governor may call the Legislature into special session. Additionally, the Lieutenant Governor or the Speaker of the House may request in writing that the Governor call the Legislature into special session. During the period that the proclaimed emergency exists or continues, the Governor shall have and may exercise the following additional emergency powers:

- (1) To enforce all laws, rules, and regulations relating to emergency management and to assume direct operational control of all emergency management forces and helpers in the state.
- (2) To sell, lend, lease, give, transfer, or deliver materials or perform services for emergency management purposes on such terms and conditions as the Governor shall prescribe and without regard to the limitations of any existing law, and to account to the State Treasurer for any funds received for such property.
- (3) To procure, by purchase, condemnation, seizure, or other means, construct, lease, transport, store, maintain, renovate, or distribute materials and facilities for emergency management without regard to the limitations of any existing law; provided, that this authority shall not be exercised with regard to newspapers, wire facilities leased or owned by news services, and other news publications, and provided further, that he or she shall make compensation for the property so seized, taken, or condemned, on the following basis:

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- a. In case property is taken for temporary use, the Governor, within 30 days of the taking, shall fix the amount of compensation to be paid therefor, and in case the property shall be returned to the owner in a damaged condition, or shall not be returned to the owner, the Governor shall fix within 30 days the amount of compensation to be paid for the damage or failure to return. Whenever the Governor shall deem it advisable for the state to take title to property taken under this section, he or she shall forthwith cause the owner of the property to be notified thereof in writing by registered or certified mail, postage prepaid, or by the best available means, and forthwith cause to be filed a copy of the notice with the Secretary of State.
 - b. If the person entitled to receive the amount so determined by the Governor as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, he or she shall be paid 75 percent of such amount and shall be entitled to recover from the State of Alabama, in an action brought in a court in the county of residence of the claimant or in Montgomery County, in the same manner as other condemnation claims are brought, within three years after the date of the Governor's award, such additional amount, if any, which when added to the amount so paid to him or her, shall be just compensation.
- (4) To provide for and compel the evacuation of all or part of the population from any stricken or threatened area or areas within the state and to take such steps as are necessary for the receipt and care of such evacuees.
 - (5) To perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population.
 - (6) To employ such measures and give such directions to the state or local boards of health as may be reasonably necessary for the purpose of securing compliance with the provisions of this article or with the findings or recommendations of such boards of health by reason of conditions arising from enemy attack or the threat of enemy attack or otherwise.

(7) To utilize the services and facilities of existing officers and agencies of the state and of the political subdivisions thereof. All such officers and agencies shall cooperate with and extend their services and facilities to the Governor as he or she may request.

(8) With due consideration to the recommendations of local authorities, the Governor may formulate and execute plans and regulations for the control of traffic in order to provide for the rapid and safe movement of evacuation over public highways and streets of people, troops, or vehicles and materials for national defense or for use in any defense industry, and may coordinate the activities of the departments or agencies of the state and of the political subdivisions thereof concerned directly or indirectly with public highways and streets, in a manner which will best effectuate such plans.

(9) To establish agencies and offices and to appoint temporary executive, technical, clerical, and other personnel as may be necessary to carry out the provisions of this article without regard to the Merit System Act.

(b) The proclamation of a state of public health emergency shall activate the disaster response and recovery aspects of the state, local, and inter-jurisdictional disaster emergency plans in the affected political subdivisions or geographic areas. Such declaration authorizes the deployment and use of any forces to which the plans apply and the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or available pursuant to this article.

(c) When a state of public health emergency has been declared or terminated, the State Board of Health shall inform members of the public on how to protect themselves and what actions are being taken to control the emergency.

(d)(1) Nothing in this section shall authorize the seizure or confiscation of any firearm or ammunition from any individual who is lawfully carrying or possessing the firearm or ammunition except as provided in subdivision (2).

(2) A law enforcement officer who is acting in the lawful discharge of the officer's official duties may disarm an individual if the officer reasonably believes that it is immediately necessary for the protection of the officer or another individual. The officer shall return the firearm to the individual before discharging that individual unless the officer arrests that individual for engaging in criminal activity or seizes the firearm as evidence pursuant to an investigation for the commission of a crime or, at the discretion of the officer, the individual poses a threat to himself or herself or to others.

(Acts 1955, No. 47, p. 267, §8; Act 2006-522, p. 1210, §1; Act 2009-572, p. 1679, §1; Act 2014-17, p. 53, §1.)

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