

SENATE BILL No. 597

By Senator Adkins

2-13

AN ACT concerning emergency preparedness for disasters; relating to terroristic attacks; plant and animal diseases; powers and duties of governor and other state government officials; amending K.S.A. 2001 Supp. 48-904, 48-924, 48-925 and 65-2891 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 48-904 is hereby amended to read as follows: 48-904. As used in this act:

(a) "Emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters;

(b) "adjutant general" means the adjutant general of the state of Kansas;

(c) "division of emergency management" means the division of emergency management created in the office of the adjutant general by K.S.A. 48-905, and amendments thereto;

(d) "disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, epidemics, contagious or infectious disease, air contamination, blight, drought, infestation, explosion, riot, *terroristic* or hostile military or paramilitary action;

(e) "unorganized militia" means all able-bodied male and female persons between the ages of 16 and 50 years;

(f) "state disaster emergency plan" means the plan prepared and maintained by the division of emergency management pursuant to K.S.A. 48-926, and amendments thereto;

(g) "local and interjurisdictional disaster emergency plans" means all disaster emergency plans developed and promulgated by county, city and interjurisdictional disaster agencies pursuant to K.S.A. 48-929, and amendments thereto; and

(h) "hazardous material" means any substance or material in a quantity or form which may be harmful or injurious to the health and safety

1 of humans, animals, crops or property when released into the environ-
2 ment. Hazardous material includes, but is not limited to, explosives, ra-
3 dioactive materials, disease-causing agents, flammable liquids, solids or
4 gases, combustible liquids, poisons, poisonous gases, oxidizing materials,
5 corrosive materials, irritants, nonflammable gases, cryogenics and blasting
6 agents.

7 Sec. 2. K.S.A. 2001 Supp. 48-924 is hereby amended to read as fol-
8 lows: 48-924. (a) The governor shall be responsible for meeting the dan-
9 gers to the state and people presented by disasters.

10 (b) (1) The governor, upon finding that a disaster has occurred or
11 that occurrence or the threat thereof is imminent, shall issue a procla-
12 mation declaring a state of disaster emergency.

13 (2) In addition to or instead of the proclamation authorized by K.S.A.
14 47-611, and amendments thereto, the governor, upon a finding or when
15 notified pursuant to K.S.A. 47-611, and amendments thereto, that a quar-
16 antine or other regulations are necessary to prevent the spread among
17 domestic animals of any contagious or infectious disease, may issue a
18 proclamation declaring a state of disaster emergency. *In addition, the*
19 *governor, upon a finding that a quarantine or other regulations are nec-*
20 *essary to prevent the spread among plants, raw agricultural commodities,*
21 *animal feed or processed food of any contagious or infectious disease, may*
22 *issue a proclamation declaring a state of disaster emergency.*

23 (3) The state of disaster emergency so declared shall continue until
24 the governor finds that the threat or danger of disaster has passed, or the
25 disaster has been dealt with to the extent that emergency conditions no
26 longer exist. Upon making such findings the governor shall terminate the
27 state of disaster emergency by proclamation, but except as provided in
28 paragraph (4), no state of disaster emergency may continue for longer
29 than 15 days unless ratified by concurrent resolution of the legislature,
30 with the single exception that upon specific application by the governor
31 to the state finance council and an affirmative vote of a majority of the
32 legislative members thereof, a state of disaster emergency may be ex-
33 tended once for a specified period not to exceed 30 days beyond such 15-
34 day period.

35 (4) If the state of disaster emergency is proclaimed pursuant to par-
36 agraph (2), the governor shall terminate the state of disaster emergency
37 by proclamation within 15 days, unless ratified by concurrent resolution
38 of the legislature, except that when the legislature is not in session and
39 upon specific application by the governor to the state finance council and
40 an affirmative vote of a majority of the legislative members thereof, a
41 state of disaster emergency may be extended for a specified period not
42 to exceed 30 days. The state finance council may authorize additional
43 extensions of the state of disaster emergency by a unanimous vote of the

1 legislative members thereof for specified periods not to exceed 30 days
2 each. Such state of disaster emergency shall be terminated on the 15th
3 day of the next regular legislative session following the initial date of the
4 state of disaster emergency unless ratified by concurrent resolution of the
5 legislature.

6 (5) At any time, the legislature by concurrent resolution may require
7 the governor to terminate a state of disaster emergency. Upon such action
8 by the legislature, the governor shall issue a proclamation terminating the
9 state of disaster emergency.

10 (6) Any proclamation declaring or terminating a state of disaster
11 emergency which is issued under this subsection shall indicate the nature
12 of the disaster, the area or areas threatened or affected by the disaster
13 and the conditions which have brought about, or which make possible
14 the termination of, the state of disaster emergency. Each such procla-
15 mation shall be disseminated promptly by means calculated to bring its
16 contents to the attention of the general public and, unless the circum-
17 stances attendant upon the disaster prevent the same, each such procla-
18 mation shall be filed promptly with the division of emergency manage-
19 ment, the office of the secretary of state and each city clerk or county
20 clerk, as the case may be, in the area to which such proclamation applies.

21 (c) In the event of the absence of the governor from the state or the
22 existence of any constitutional disability of the governor, an officer spec-
23 ified in K.S.A. 48-1204 and amendments thereto, in the order of succes-
24 sion provided by that section, may issue a proclamation declaring a state
25 of disaster emergency in the manner provided in and subject to the pro-
26 visions of subsection (a). During a state of disaster emergency declared
27 pursuant to this subsection, such officer may exercise the powers con-
28 ferred upon the governor by K.S.A. 48-925, and amendments thereto. If
29 a preceding officer in the order of succession becomes able and available,
30 the authority of the officer exercising such powers shall terminate and
31 such powers shall be conferred upon the preceding officer. Upon the
32 return of the governor to the state or the removal of any constitutional
33 disability of the governor, the authority of an officer to exercise the powers
34 conferred by this section shall terminate immediately and the governor
35 shall resume the full powers of the office. Any state of disaster emergency
36 and any actions taken by an officer under this subsection shall continue
37 and shall have full force and effect as authorized by law unless modified
38 or terminated by the governor in the manner prescribed by law.

39 (d) A proclamation declaring a state of disaster emergency shall ac-
40 tivate the disaster response and recovery aspects of the state disaster
41 emergency plan and of any local and interjurisdictional disaster plans
42 applicable to the political subdivisions or areas affected by the procla-
43 mation. Such proclamation shall be authority for the deployment and use

1 of any forces to which the plan or plans apply and for use or distribution
2 of any supplies, equipment, materials or facilities assembled, stockpiled
3 or arranged to be made available pursuant to this act during a disaster.

4 (e) The governor, when advised pursuant to K.S.A. 74-2608, and
5 amendments thereto, that conditions indicative of drought exist, shall be
6 authorized to declare by proclamation that a state of drought exists. This
7 declaration of a state of drought can be for specific areas or communities,
8 can be statewide or for specific water sources and shall effect immediate
9 implementation of drought contingency plans contained in state approved
10 conservation plans, including those for state facilities.

11 (f) *Such proclamation may authorize law enforcement officers to*
12 *make arrests and use necessary force to enforce a quarantine or other*
13 *regulations of humans, domestic animals, plants, raw agricultural com-*
14 *modities, animal feed or processed food to prevent the spread of any*
15 *contagious or infectious disease.*

16 Sec. 3. K.S.A. 2001 Supp. 48-925 is hereby amended to read as fol-
17 lows: 48-925. (a) During any state of disaster emergency declared under
18 K.S.A. 48-924, and amendments thereto, the governor shall be com-
19 mander-in-chief of the organized and unorganized militia and of all other
20 forces available for emergency duty. To the greatest extent practicable,
21 the governor shall delegate or assign command authority by prior arrange-
22 ment, embodied in appropriate executive orders or in rules and regula-
23 tions of the adjutant general, but nothing herein shall restrict the authority
24 of the governor to do so by orders issued at the time of a disaster.

25 (b) Under the provisions of this act and for the implementation
26 thereof, the governor may issue orders and proclamations which shall
27 have the force and effect of law during the period of a state of disaster
28 emergency declared under subsection (b) of K.S.A. 48-924, and amend-
29 ments thereto, and which orders and proclamations shall be null and void
30 thereafter unless ratified by concurrent resolution of the legislature. Such
31 orders and proclamations may be revoked at any time by concurrent res-
32 olution of the legislature.

33 (c) During a state of disaster emergency declared under K.S.A. 48-
34 924, and amendments thereto, and in addition to any other powers con-
35 ferred upon the governor by law, the governor may:

36 (1) Suspend the provisions of any regulatory statute prescribing the
37 procedures for conduct of state business, or the orders or rules and reg-
38 ulations of any state agency which implements such statute, if strict com-
39 pliance with the provisions of such statute, order or rule and regulation
40 would prevent, hinder or delay in any way necessary action in coping with
41 the disaster;

42 (2) utilize all available resources of the state government and of each
43 political subdivision as reasonably necessary to cope with the disaster;

1 (3) transfer the supervision, personnel or functions of state depart-
2 ments and agencies or units thereof for the purpose of performing or
3 facilitating emergency management activities, *including expanding law*
4 *enforcement officer status to state correctional officers and public health*
5 *officials;*

6 (4) subject to any applicable requirements for compensation under
7 K.S.A. 48-933, and amendments thereto, commandeer or utilize any pri-
8 vate property if the governor finds such action necessary to cope with the
9 disaster;

10 (5) direct and compel the evacuation of all or part of the population
11 from any area of the state stricken or threatened by a disaster, if the
12 governor deems this action necessary for the preservation of life or other
13 disaster mitigation, response or recovery;

14 (6) prescribe routes, modes of transportation and destinations in con-
15 nection with such evacuation;

16 (7) control ingress and egress of persons and animals to and from a
17 disaster area, the movement of persons and animals within the area and
18 the occupancy by persons and animals of premises therein;

19 (8) suspend or limit the sale, dispensing or transportation of alcoholic
20 beverages, firearms, explosives and combustibles;

21 (9) make provision for the availability and use of temporary emer-
22 gency housing;

23 (10) require and direct the cooperation and assistance of state and
24 local governmental agencies and officials; ~~and~~

25 (11) *authorize law enforcement officers and other public safety offi-*
26 *cial to control the traffic flow, including road blocks, of public roads when*
27 *necessary to maintain public order or protect against loss of life or injury*
28 *or economic loss;*

29 (12) *allow for medical personnel appropriately licensed in any state*
30 *other than Kansas to provide medical care and treatment in Kansas with-*
31 *out the need for licensure in Kansas. Such declaration shall specifically*
32 *authorize such persons to engage in their professions notwithstanding*
33 *state law to the contrary; and*

34 (13) perform and exercise such other functions, powers and duties as
35 are necessary to promote and secure the safety and protection of the
36 civilian population.

37 (d) The governor shall exercise the powers conferred by subsection
38 (c) by issuance of orders under subsection (b). The adjutant general, sub-
39 ject to the direction of the governor, shall administer such orders.

40 Sec. 4. K.S.A. 2001 Supp. 65-2891 is hereby amended to read as
41 follows: 65-2891. (a) Any health care provider who in good faith renders
42 emergency care or assistance at the scene of an emergency or accident
43 including treatment of a minor without first obtaining the consent of the

1 parent or guardian of such minor shall not be liable for any civil damages
2 for acts or omissions other than damages occasioned by gross negligence
3 or by willful or wanton acts or omissions by such person in rendering such
4 emergency care.

5 (b) Any health care provider may render in good faith emergency
6 care or assistance, without compensation, to any minor requiring such
7 care or assistance as a result of having engaged in competitive sports,
8 without first obtaining the consent of the parent or guardian of such
9 minor. Such health care provider shall not be liable for any civil damages
10 other than damages occasioned by gross negligence or by willful or wan-
11 ton acts or omissions by such person in rendering such emergency care.

12 (c) Any health care provider may in good faith render emergency care
13 or assistance during an emergency which occurs within a hospital or else-
14 where, with or without compensation, until such time as the physician
15 employed by the patient or by the patient's family or by guardian assumes
16 responsibility for such patient's professional care. The health care pro-
17 vider rendering such emergency care shall not be held liable for any civil
18 damages other than damages occasioned by negligence.

19 (d) Any provision herein contained notwithstanding, the ordinary
20 standards of care and rules of negligence shall apply in those cases
21 wherein emergency care and assistance is rendered in any physician's or
22 dentist's office, clinic, emergency room or hospital with or without
23 compensation.

24 (e) As used in this section the term "health care provider" means any
25 person licensed to practice any branch of the healing arts, licensed dentist,
26 licensed optometrist, licensed professional nurse, licensed practical nurse,
27 licensed podiatrist, licensed pharmacist, registered physical therapist, and
28 any physician's assistant who has successfully completed an American
29 medical association approved training program and has successfully com-
30 pleted the national board examination for physicians' assistants of the
31 American board of medical examiners, any registered athletic trainer, any
32 registered occupational therapist, any licensed respiratory therapist, any
33 person who holds a valid attendant's certificate under K.S.A. 65-6129,
34 and amendments thereto, any person who holds a valid certificate for the
35 successful completion of a course in first aid offered or approved by the
36 American red cross, by the American heart association, by the mining
37 enforcement and safety administration of the bureau of mines of the
38 department of interior, by the national safety council or by any instructor-
39 coordinator, as defined in K.S.A. 65-6112, and amendments thereto, ~~and~~
40 any person engaged in a postgraduate training program approved by the
41 state board of healing arts, *and any person licensed in any state other*
42 *than Kansas authorized by the governor to provide medical care and*
43 *treatment in Kansas by the provisions of K.S.A. 48-925, and amendments*

1 *thereto.*

2 New Sec. 5. Every agency of state government of the state of Kansas
3 shall submit a plan to the governor for ensuring the continuity of state
4 government in the event of a terrorist attack in the state of Kansas that
5 threatens the safety and security of this state or its leadership. Such plan
6 shall be submitted by September 1, 2002. Such plans shall be subject to
7 the approval of the governor. After such approval, such plans shall be set
8 forth by the governor in an executive order.

9 Sec. 6. K.S.A. 2001 Supp. 48-904, 48-924, 48-925 and 65-2891 are
10 hereby repealed.

11 Sec. 7. This act shall take effect and be in force from and after its
12 publication in the statute book.

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