

As Amended by House Committee

Session of 2008

HOUSE BILL No. 2811

By Committee on Appropriations

2-11

10 AN ACT concerning emergency powers of local government and other
11 governmental entities; amending K.S.A. 48-925 and repealing the ex-
12 isting section.
13

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

15 New Section 1. (a) No officer or employee of the state or any political
16 subdivision thereof, member of the Kansas national guard in the service
17 of the state, or any person operating pursuant to or under color of state
18 law, receiving state funds, under control of any official of the state or
19 political subdivision thereof, or providing services to such officer, em-
20 ployee or other person, while acting during a declared official state of
21 emergency, may:

22 (1) Temporarily or permanently seize, or authorize seizure of, any
23 firearm the possession of which is not prohibited under state law, other
24 than as evidence in a criminal investigation; or

25 (2) require registration of any firearm for which registration is not
26 required by state law.

27 (b) Any individual aggrieved by a violation of this section may seek
28 in the courts of this state relief in an action at law or in equity or other
29 proper proceeding for redress against any person who subjects such in-
30 dividual, or causes such individual to be subjected, to the deprivation of
31 any of the rights, privileges or immunities provided by this section.

32 (c) In addition to any other remedy at law or in equity, an individual
33 aggrieved by the seizure or confiscation of a firearm in violation of this
34 section may bring an action for return of such firearm in the district court
35 of the county in which that individual resides or in which such firearm is
36 located. In any action or proceeding to enforce this section, the court
37 shall award the prevailing party, other than the state or political subdi-
38 vision thereof, reasonable attorneys' fees.

39 (d) **“Seize” shall mean the act of forcible dispossessing an**
40 **owner of property under actual or apparent authority of law.**

41 Sec. 2. K.S.A. 48-925 is hereby amended to read as follows: 48-925.

42 (a) During any state of disaster emergency declared under K.S.A. 48-924,
43 and amendments thereto, the governor shall be commander-in-chief of

1 the organized and unorganized militia and of all other forces available for
2 emergency duty. To the greatest extent practicable, the governor shall
3 delegate or assign command authority by prior arrangement, embodied
4 in appropriate executive orders or in rules and regulations of the adjutant
5 general, but nothing herein shall restrict the authority of the governor to
6 do so by orders issued at the time of a disaster.

7 (b) Under the provisions of this act and for the implementation
8 thereof, the governor may issue orders and proclamations which shall
9 have the force and effect of law during the period of a state of disaster
10 emergency declared under subsection (b) of K.S.A. 48-924, and amend-
11 ments thereto, and which orders and proclamations shall be null and void
12 thereafter unless ratified by concurrent resolution of the legislature. Such
13 orders and proclamations may be revoked at any time by concurrent res-
14 olution of the legislature.

15 (c) During a state of disaster emergency declared under K.S.A. 48-
16 924, and amendments thereto, and in addition to any other powers con-
17 ferred upon the governor by law, the governor may:

18 (1) Suspend the provisions of any regulatory statute prescribing the
19 procedures for conduct of state business, or the orders or rules and reg-
20 ulations of any state agency which implements such statute, if strict com-
21 pliance with the provisions of such statute, order or rule and regulation
22 would prevent, hinder or delay in any way necessary action in coping with
23 the disaster;

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

26 (3) transfer the supervision, personnel or functions of state depart-
27 ments and agencies or units thereof for the purpose of performing or
28 facilitating emergency management activities;

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

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

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

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

42 (8) suspend or limit the sale, dispensing or transportation of alcoholic
43 beverages, ~~firearms~~, explosives and combustibles;

- 1 (9) make provision for the availability and use of temporary emer-
- 2 gency housing;
- 3 (10) require and direct the cooperation and assistance of state and
- 4 local governmental agencies and officials; and
- 5 (11) perform and exercise such other functions, powers and duties as
- 6 are necessary to promote and secure the safety and protection of the
- 7 civilian population.
- 8 (d) The governor shall exercise the powers conferred by subsection
- 9 (c) by issuance of orders under subsection (b). The adjutant general, sub-
- 10 ject to the direction of the governor, shall administer such orders.
- 11 Sec. 3. K.S.A. 48-925 is hereby repealed.
- 12 Sec. 4. This act shall take effect and be in force from and after its
- 13 publication in the statute book.