

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2458

AN ACT

AMENDING SECTION 26-303, ARIZONA REVISED STATUTES; RELATING TO STATE EMERGENCIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 26-303, Arizona Revised Statutes, is amended to
3 read:
4 26-303. Emergency powers of governor; termination;
5 authorization for adjutant general; limitation
6 A. During a state of war emergency, the governor may:
7 1. Suspend the provisions of any statute prescribing the procedure for
8 conduct of state business, or the orders or rules of any state agency, if the
9 governor determines and declares that strict compliance with the provisions
10 of any such statute, order or rule would in any way prevent, hinder or delay
11 mitigation of the effects of the emergency.
12 2. Commandeer and utilize any property, **EXCEPT FOR FIREARMS,**
13 **AMMUNITION OR FIREARMS OR AMMUNITION COMPONENTS** or personnel deemed necessary
14 in carrying out the responsibilities vested in the office of the governor by
15 this chapter as chief executive of the state and thereafter the state shall
16 pay reasonable compensation therefor as follows:
17 (a) If property is taken for temporary use, the governor, within ten
18 days after the taking, shall determine the amount of compensation to be paid
19 therefor. If the property is returned in a damaged condition, the governor
20 ~~shall~~, within ten days after its return, **SHALL** determine the amount of
21 compensation to be paid for such damage.
22 (b) If the governor deems it necessary for the state to take title to
23 property under this section, the governor shall then cause the owner of the
24 property to be notified thereof in writing by registered mail, postage
25 prepaid, and then cause a copy of the notice to be filed with the secretary
26 of state.
27 (c) If the owner refuses to accept the amount of compensation fixed by
28 the governor for the property referred to in subdivisions (a) and (b) ~~of this~~
29 ~~paragraph~~, the amount of compensation shall be determined by appropriate
30 proceedings in the superior court in the county where the property was
31 originally taken.
32 B. During a state of war emergency, the governor shall have complete
33 authority over all agencies of the state government and shall exercise all
34 police power vested in this state by the constitution and laws of this state
35 in order to effectuate the purposes of this chapter.
36 C. The powers granted the governor by this chapter with respect to a
37 state of war emergency shall terminate if the legislature is not in session
38 and the governor has not, within twenty-four hours after the beginning of
39 such state of war emergency, issued a call for an immediate special session
40 of the legislature for the purpose of legislating on subjects relating to
41 such state of war emergency.
42 D. The governor may proclaim a state of emergency which shall take
43 effect immediately in an area affected or likely to be affected if the
44 governor finds that circumstances described in section 26-301, paragraph 15
45 exist.

1 E. During a state of emergency:
2 1. The governor shall have complete authority over all agencies of the
3 state government and the right to exercise, within the area designated, all
4 police power vested in the state by the constitution and laws of this state
5 in order to effectuate the purposes of this chapter.
6 2. The governor may direct all agencies of the state government to
7 utilize and employ state personnel, equipment and facilities for the
8 performance of any and all activities designed to prevent or alleviate actual
9 and threatened damage due to the emergency. The governor may direct such
10 agencies to provide supplemental services and equipment to political
11 subdivisions to restore any services in order to provide for the health and
12 safety of the citizens of the affected area.
13 F. The powers granted the governor by this chapter with respect to a
14 state of emergency shall terminate when the state of emergency has been
15 terminated by proclamation of the governor or by concurrent resolution of the
16 legislature declaring it at an end.
17 G. No provision of this chapter may limit, modify or abridge the
18 powers vested in the governor under the constitution or statutes of this
19 state.
20 H. If authorized by the governor, the adjutant general has the powers
21 prescribed in this subsection. If, in the judgment of the adjutant general,
22 circumstances described in section 26-301, paragraph 15 exist, the adjutant
23 general may:
24 1. Exercise those powers pursuant to statute and gubernatorial
25 authorization following the proclamation of a state of emergency under
26 subsection D of this section.
27 2. Incur obligations of twenty thousand dollars or less for each
28 emergency or contingency payable pursuant to section 35-192 as though a state
29 of emergency had been proclaimed under subsection D of this section.
30 I. The powers exercised by the adjutant general pursuant to subsection
31 H of this section expire seventy-two hours after the adjutant general makes a
32 determination under subsection H of this section.
33 J. PURSUANT TO THE SECOND AMENDMENT OF THE UNITED STATES CONSTITUTION
34 AND ARTICLE II, SECTION 26 OF THE CONSTITUTION OF ARIZONA AND NOTWITHSTANDING
35 THE OTHER PROVISIONS OF THIS SECTION OR ANY OTHER PROVISION OF LAW, THE
36 EMERGENCY POWERS OF THE GOVERNOR, THE ADJUTANT GENERAL OR ANY OTHER OFFICIAL
37 OR PERSON SHALL NOT BE CONSTRUED TO ALLOW THE IMPOSITION OF ADDITIONAL
38 RESTRICTIONS ON THE LAWFUL POSSESSION, TRANSFER, SALE, TRANSPORT, CARRYING,
39 STORAGE, DISPLAY OR USE OF FIREARMS, AMMUNITION OR FIREARMS OR AMMUNITION
40 COMPONENTS.
41 K. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE
42 GOVERNOR, THE ADJUTANT GENERAL OR OTHER OFFICIALS RESPONDING TO AN EMERGENCY
43 FROM ORDERING THE REASONABLE MOVEMENT OF STORES OF AMMUNITION OUT OF THE WAY
44 OF DANGEROUS CONDITIONS.