

HOUSE BILL No. 2811

By Committee on Appropriations

2-11

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

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

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

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

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

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

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

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

39 (a) During any state of disaster emergency declared under K.S.A. 48-924,
40 and amendments thereto, the governor shall be commander-in-chief of
41 the organized and unorganized militia and of all other forces available for
42 emergency duty. To the greatest extent practicable, the governor shall
43 delegate or assign command authority by prior arrangement, embodied

1 in appropriate executive orders or in rules and regulations of the adjutant
2 general, but nothing herein shall restrict the authority of the governor to
3 do so by orders issued at the time of a disaster.

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

12 (c) During a state of disaster emergency declared under K.S.A. 48-
13 924, and amendments thereto, and in addition to any other powers con-
14 ferred upon the governor by law, the governor may:

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

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

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

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

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

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

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

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

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

43 (10) require and direct the cooperation and assistance of state and

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