

**39A.100 Emergency powers of Governor and local chief executive officers --
Report by Governor -- Construction of statute.**

- (1) In the event of the occurrence or threatened or impending occurrence of any of the situations or events enumerated in KRS 39A.010, 39A.020, or 39A.030, the Governor may declare, in writing, that a state of emergency exists. The Governor shall have and may exercise the following emergency powers during the period in which the state of emergency exists:
- (a) To enforce all laws, and administrative regulations relating to disaster and emergency response and to assume direct operational control of all disaster and emergency response forces and activities in the Commonwealth;
 - (b) To require state agencies and to request local governments, local agencies, and special districts to respond to the emergency or disaster in the manner directed;
 - (c) To seize, take, or condemn property, for the duration of the emergency, and only for public use as defined in KRS 416.675, excluding firearms and ammunition, components of firearms and ammunition, or a combination thereof, for the protection of the public or at the request of the President, the Armed Forces, or the Federal Emergency Management Agency of the United States, including:
 - 1. All means of transportation and communication;
 - 2. All stocks of fuel of whatever nature;
 - 3. Food, clothing, equipment, materials, medicines, and all supplies; and
 - 4. Facilities, including buildings and plants.Compensation for property seized, taken, or condemned under this paragraph shall be determined using the process in KRS 416.540 to 416.670 to determine value;
 - (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this subsection among the inhabitants of the Commonwealth and to account to the State Treasurer for any funds received for the property;
 - (e) To make compensation for the property seized, taken, or condemned under paragraph (c) of this subsection;
 - (f) To exclude all nonessential, unauthorized, disruptive, or otherwise uncooperative personnel from the scene of the emergency, and to command those persons or groups assembled at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
 - (g) To declare curfews and establish their limits;
 - (h) To prohibit or limit the sale or consumption of goods, in the event of a

shortage of goods, excluding firearms and ammunition, components of firearms and ammunition, or a combination thereof, or commodities for the duration of the emergency;

- (i) To grant emergency authority to pharmacists pursuant to KRS 315.500, for the duration of the emergency;
 - (j) To request any assistance from agencies of the United States as necessary and appropriate to meet the needs of the people of the Commonwealth;
 - (k) Upon the recommendation of the Secretary of State, to declare by executive order a different time or place for holding elections in an election area for which a state of emergency has been declared for part or all of the election area. The election shall be held within thirty-five (35) days from the date of the suspended or delayed election. The executive order shall remain in effect until the date of the suspended or delayed election regardless of the time limitations in KRS 39A.090 and shall not be changed except by action of the General Assembly. The State Board of Elections shall establish procedures for election officials to follow. Any procedures established under this paragraph shall be subject to the approval of the Secretary of State and the Governor by respective executive orders; and
 - (l) Except as prohibited by this section or other law, to take action necessary to execute those powers enumerated in paragraphs (a) to (k) of this subsection.
- (2) Within thirty (30) days of a declared emergency, and every thirty (30) days thereafter, the Governor shall report to the General Assembly, if in session, or to the Legislative Research Commission if the General Assembly is not in session, on a form provided by the Commission detailing:
- (a) All expenditures relating to contracts issued during the emergency under KRS 45A.085 or 45A.095, or under any provision for which a state agency does not solicit bids or proposals for a contract; and
 - (b) All revenues received from the federal government in response to the declared emergency, any expenditures or expenditure plan for the federal funds by federal program, the state agency or program that was allocated the federal funds, and any state fund expenditures required to match the federal funds.
- (3) In the event of the occurrence or threatened or impending occurrence of any of the situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in the judgment of a local chief executive officer is of such severity or complexity as to require the exercise of extraordinary emergency measures, the county judge/executive of a county other than an urban-county government, or mayor of a city or urban-county government, or chief executive of other local governments or their designees as provided by ordinance of the affected county, city, or urban-county may declare in writing that a state of emergency exists, and thereafter, subject to any orders of the Governor, shall have and may exercise for the period as the state of emergency exists or continues, the following emergency powers:
- (a) To enforce all laws and administrative regulations relating to disaster and emergency response and to direct all local disaster and emergency response

forces and operations in the affected county, city, urban-county, or charter county;

- (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative personnel from the scene of the emergency, and to command persons or groups of persons at the scene to disperse. A person who refuses to leave an area in which a written order of evacuation has been issued in accordance with a written declaration of emergency or a disaster may be forcibly removed to a place of safety or shelter, or may, if this is resisted, be arrested by a peace officer. Forcible removal or arrest shall not be exercised as options until all reasonable efforts for voluntary compliance have been exhausted;
 - (c) To declare curfews and establish their limits;
 - (d) To order immediate purchase or rental of, contract for, or otherwise procure, without regard to procurement codes or budget requirements, the goods and services essential for protection of public health and safety or to maintain or to restore essential public services; and
 - (e) To request emergency assistance from any local government or special district and, through the Governor, to request emergency assistance from any state agency and to initiate requests for federal assistance as are necessary for protection of public health and safety or for continuation of essential public services.
- (4) Nothing in this section shall be construed to allow any governmental entity to impose additional restrictions on:
- (a) The lawful possession, transfer, sale, transport, carrying, storage, display, or use of firearms and ammunition or components of firearms and ammunition;
 - (b) The right of the people to exercise free speech, freedom of the press, to petition their government for redress of injuries, or to peaceably assemble; or
 - (c) The right of the people to worship, worship in person, or to act or refuse to act in a manner motivated by a sincerely held religious belief.
- (5) Nothing in this section shall be construed to allow any governmental entity to impose restrictions on the right of the people to:
- (a) Peaceably assemble; or
 - (b) Worship, worship in person, or to act or refuse to act in a manner motivated by a sincerely held religious belief.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 6, sec. 3, effective February 2, 2021; and ch. 197, sec. 75, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 91, sec. 74, effective April 15, 2020. -- Amended 2010 Ky. Acts ch. 22, sec. 3, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 7, sec. 1, effective March 8, 2006; and ch. 240, sec. 10, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 91, sec. 1, effective June 20, 2005. -- Created 1998 Ky. Acts ch. 226, sec. 9, effective July 15, 1998.

Legislative Research Commission Note (6/29/2021). This statute was amended by 2021 Ky. Acts chs. 6 and 197, which do not appear to be in conflict and have been codified together.