

House Engrossed

state of emergency; termination

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HOUSE BILL 2471

AN ACT

REPEALING SECTION 26-303, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 8; AMENDING SECTION 26-303, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 348, SECTION 2 AND CHAPTER 367, SECTION 1; RELATING TO EMERGENCY MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 26-303, Arizona Revised Statutes, as amended by Laws 2021,  
4 chapter 405, section 8, is repealed.

5 Sec. 2. Section 26-303, Arizona Revised Statutes, as amended by  
6 Laws 2021, chapter 348, section 2 and chapter 367, section 1, is amended  
7 to read:

8 26-303. Emergency powers of governor; termination;  
9 authorization for adjutant general; limitation;  
10 extension; report; notices; appeals

11 A. During a state of war emergency, the governor may:

12 1. Suspend the provisions of any statute prescribing the procedure  
13 for conduct of state business, or the orders or rules of any state agency,  
14 if the governor determines and proclaims that strict compliance with the  
15 provisions of any such statute, order or rule would in any way prevent,  
16 hinder or delay mitigation of the effects of the emergency.

17 2. Commandeer and use any property, except for firearms or  
18 ammunition or firearms or ammunition components, or personnel deemed  
19 necessary in carrying out the responsibilities vested in the office of the  
20 governor by this chapter as chief executive of this state, and thereafter  
21 this state shall pay reasonable compensation for the property as follows:

22 (a) If property is taken for temporary use, the governor, within  
23 ten days after the taking, shall determine the amount of compensation to  
24 be paid for the property. If the property is returned in a damaged  
25 condition, the governor, within ten days after its return, shall determine  
26 the amount of compensation to be paid for such damage.

27 (b) If the governor deems it necessary for this state to take title  
28 to property under this section, the governor shall then cause the owner of  
29 the property to be notified thereof in writing by registered mail, postage  
30 prepaid, and then cause a copy of the notice to be filed with the  
31 secretary of state.

32 (c) If the owner refuses to accept the amount of compensation fixed  
33 by the governor for the property referred to in subdivisions (a) and (b)  
34 of this paragraph, the amount of compensation shall be determined by  
35 appropriate proceedings in the superior court in the county where the  
36 property was originally taken.

37 B. During a state of war emergency, the governor shall have  
38 complete authority over all agencies of the state government and shall  
39 exercise all police power vested in this state by the constitution and  
40 laws of this state in order to effectuate the purposes of this chapter.

41 C. The powers granted to the governor by this chapter with respect  
42 to a state of war emergency shall terminate if the legislature is not in  
43 session and the governor, within twenty-four hours after the beginning of  
44 such a state of war emergency, has not issued a call for an immediate

1 special session of the legislature for the purpose of legislating on  
2 subjects relating to such a state of war emergency.

3 D. The governor may proclaim a state of emergency, which shall take  
4 effect immediately in an area affected or likely to be affected if the  
5 governor finds that circumstances described in section 26-301, paragraph  
6 15 exist.

7 E. During a state of emergency:

8 1. The governor shall have complete authority over all agencies of  
9 the state government and the right to exercise, within the area  
10 designated, all police power vested in this state by the constitution and  
11 laws of this state in order to effectuate the purposes of this chapter.

12 2. The governor may direct all agencies of the state government to  
13 use and employ state personnel, equipment and facilities to perform any  
14 activities designed to prevent or alleviate actual and threatened damage  
15 due to the emergency. The governor may direct such agencies to provide  
16 supplemental services and equipment to political subdivisions to restore  
17 any services in order to provide for the health and safety of the citizens  
18 of the affected area.

19 F. The powers granted to the governor by this chapter with respect  
20 to a state of emergency shall terminate when the state of emergency has  
21 been terminated. **THE STATE OF EMERGENCY TERMINATES:**

22 1. By proclamation of the governor or by concurrent resolution of  
23 the legislature declaring ~~†~~ **THE STATE OF EMERGENCY** at an end.

24 2. **FOURTEEN DAYS AFTER THE DATE ON WHICH THE STATE OF EMERGENCY IS**  
25 **PROCLAIMED, UNLESS, ON OR BEFORE THE FOURTEENTH DAY AFTER THE DATE ON**  
26 **WHICH THE STATE OF EMERGENCY IS PROCLAIMED, THE GOVERNOR CALLS FOR A**  
27 **SPECIAL SESSION TO ASSEMBLE THE LEGISLATURE FOR THE PURPOSE OF LEGISLATING**  
28 **ON SUBJECTS RELATING TO THE STATE OF EMERGENCY.**

29 G. This chapter does not limit, modify or abridge the powers vested  
30 in the governor under the constitution or statutes of this state.

31 H. If authorized by the governor, the adjutant general has the  
32 powers prescribed in this subsection. If, in the judgment of the adjutant  
33 general, circumstances described in section 26-301, paragraph 15 exist,  
34 the adjutant general may:

35 1. Exercise those powers pursuant to statute and gubernatorial  
36 authorization following the proclamation of a state of emergency under  
37 subsection D of this section.

38 2. Incur obligations of \$100,000 or less for each emergency or  
39 contingency payable pursuant to section 35-192 as though a state of  
40 emergency had been proclaimed under subsection D of this section.

41 I. The powers exercised by the adjutant general pursuant to  
42 subsection H of this section expire seventy-two hours after the adjutant  
43 general makes a determination under subsection H of this section.

44 J. Pursuant to the second amendment of the United States  
45 Constitution and article II, section 26, Constitution of Arizona, and

1 notwithstanding any other law, the emergency powers of the governor, the  
2 adjutant general or any other official or person do not allow the  
3 imposition of additional restrictions on the lawful possession, transfer,  
4 sale, transportation, carrying, storage, display or use of firearms or  
5 ammunition or firearms or ammunition components. A store that sells  
6 firearms or ammunition, or firearms or ammunition components, is an  
7 essential business and is protected from a qualified civil liability  
8 action pursuant to section 12-721.

9 K. This section does not:

10 1. Prohibit the governor, the adjutant general or other officials  
11 responding to an emergency from ordering the reasonable movement of stores  
12 of ammunition out of the way of dangerous conditions.

13 2. Allow a state agency or a city, town or county to permanently  
14 revoke any license held by a business or used to operate a business for  
15 not complying with an order issued by the governor with respect to a state  
16 of emergency proclaimed by the governor pursuant to section 36-787,  
17 subsection A unless the state agency or the city, town or county can  
18 demonstrate by clear and convincing evidence that the business caused the  
19 transmission of the disease that is the subject of the order due to the  
20 business's wilful misconduct or gross negligence.

21 L. Before a state agency, city, town or county suspends or  
22 permanently revokes, pursuant to subsection M of this section, a license  
23 held by a business or used to operate a business, the state agency, city,  
24 town or county shall provide the business with both of the following:

25 1. A written notice of noncompliance delivered by personal service  
26 or certified mail.

27 2. A written notice of intent to suspend or permanently revoke the  
28 license at least thirty days after the date of the notice of noncompliance  
29 provided pursuant to paragraph 1 of this subsection. The state agency,  
30 city, town or county shall present any new evidence of grounds for  
31 suspension or PERMANENT revocation in the written notice required by this  
32 paragraph. A business that receives a notice pursuant to this paragraph  
33 and disputes the claim shall respond to the state agency, city, town or  
34 county within twenty days after receiving the notice.

35 M. Any dispute relating to the suspension or permanent revocation  
36 of a license held by a business or used to operate a business shall be  
37 resolved by a court of competent jurisdiction in this state. A state  
38 agency, city, town or county may not suspend or permanently revoke a  
39 license held by a business or used to operate a business until the  
40 business has received both notices prescribed in subsection L of this  
41 section and all appeals have been exhausted. The court may award  
42 reasonable attorney fees and damages to a business in an action relating  
43 to the suspension or permanent revocation of a license held by a business  
44 or used to operate a business.