



Senate

General Assembly

File No. 191

February Session, 2010

Substitute Senate Bill No. 149

Senate, March 30, 2010

The Committee on Public Health reported through SEN. HARRIS of the 5th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE GOVERNOR'S POWER TO MODIFY OR SUSPEND STATUTES, REGULATIONS OR OTHER REQUIREMENTS DURING A PUBLIC HEALTH EMERGENCY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 28-9 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) In the event of serious disaster, enemy attack, sabotage or other
4 hostile action or in the event of the imminence thereof, the Governor
5 may proclaim that a state of civil preparedness emergency exists, in
6 which event [he] the Governor may personally take direct operational
7 control of any or all parts of the civil preparedness forces and functions
8 in the state. Any such proclamation shall be effective upon filing with
9 the Secretary of the State. Any such proclamation, or order issued
10 pursuant thereto, issued by the Governor because of a disaster
11 resulting from man-made cause may be disapproved by majority vote
12 of a joint legislative committee consisting of the president pro tempore
13 of the Senate, the speaker of the House of Representatives and the

14 majority and minority leaders of both houses of the General Assembly,
15 provided at least one of the minority leaders votes for such
16 disapproval. Such disapproval shall not be effective unless filed with
17 the Secretary of the State [within] not later than seventy-two hours [of]
18 after the filing of the Governor's proclamation with the Secretary of the
19 State. As soon as possible after such proclamation, if the General
20 Assembly is not then in session, the Governor shall meet with the
21 president pro tempore of the Senate, the speaker of the House of
22 Representatives, and the majority and minority leaders of both houses
23 of the General Assembly and shall confer with them on the advisability
24 of calling a special session of the General Assembly.

25 (b) Upon such proclamation, the following provisions of this section
26 and the provisions of section 28-11 shall immediately become effective
27 and shall continue in effect until the Governor proclaims the end of the
28 civil preparedness emergency:

29 [(a) The] (1) Following the Governor's proclamation of a civil
30 preparedness emergency pursuant to subsection (a) of this section or
31 declaration of a public health emergency pursuant to section 19a-131a,
32 the Governor [is authorized and empowered to] may modify or
33 suspend in whole or in part, by order as hereinafter provided, any
34 statute, regulation or requirement or part thereof whenever [in his
35 opinion it] the Governor finds such statute, regulation or requirement,
36 or part thereof, is in conflict with the efficient and expeditious
37 execution of civil preparedness functions or the protection of the
38 public health. The Governor shall specify in such order the reason or
39 reasons therefor and any statute, regulation or requirement or part
40 thereof to be modified or suspended and the period, not exceeding six
41 months unless sooner revoked, during which such order [,
42 modification or suspension] shall be enforced. Any such order shall
43 have the full force and effect of law upon the filing of the full text
44 [thereof] of such order in the office of the Secretary of the State. The
45 Secretary of the State shall, [within] not later than four days after
46 receipt of the order, cause such order to be printed and published in
47 full in at least one issue of a newspaper published in each county and

48 having general circulation therein, but failure to publish shall not
49 impair the validity of such order. Any statute, regulation or
50 requirement, or part thereof, inconsistent [therewith] with such order
51 shall be inoperative for the effective period of such order. [or
52 suspension.] Any such order shall be communicated by the Governor
53 at the earliest date to both houses of the General Assembly.

54 [(b)] (2) The Governor may order into action all or any part of the
55 department or local or joint organizations for civil preparedness
56 mobile support units or any other civil preparedness forces.

57 [(c)] (3) The Governor shall order and enforce such blackouts and
58 radio silences as are authorized by the United States Army or its duly
59 designated agency and may take any other precautionary measures
60 reasonably necessary in the light of the emergency.

61 [(d)] (4) The Governor may designate such vehicles and persons as
62 shall be permitted to move and the routes which they shall follow.

63 [(e)] (5) The Governor shall take appropriate measures for
64 protecting the health and safety of inmates of state institutions and
65 children in schools.

66 [(f)] (6) The Governor may order the evacuation of all or part of the
67 population of stricken or threatened areas and may take such steps as
68 are necessary for the receipt and care of such evacuees.

69 [(g)] (7) The Governor may take such other steps as are reasonably
70 necessary in the light of the emergency to protect the health, safety and
71 welfare of the people of the state, to prevent or minimize loss or
72 destruction of property and to minimize the effects of hostile action.

73 [(h)] (8) In order to insure the automatic and effective operation of
74 civil preparedness in the event of enemy attack, sabotage or other
75 hostile action, or in the event of the imminence thereof, the Governor
76 may, at [his] the Governor's discretion, at any time prior to actual
77 development of such conditions, issue such proclamations and
78 executive orders as [he] the Governor deems necessary, such

79 proclamations and orders to become effective only under such
80 conditions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	28-9

PS *Joint Favorable Subst. C/R* PH

PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill clarifies the authority of the Governor in certain emergency situations. There is no associated fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 149*****AN ACT CONCERNING THE GOVERNOR'S POWER TO MODIFY OR SUSPEND STATUTES, REGULATIONS OR OTHER REQUIREMENTS DURING A PUBLIC HEALTH EMERGENCY.*****SUMMARY:**

This bill allows the governor, when she declares a civil preparedness emergency, to modify or suspend statutes, regulations, or other requirements that conflict with the protection of the public health, not just those that conflict with the efficient and expeditious execution of civil preparedness functions.

The bill also explicitly allows her to take such actions when she declares a public health emergency, but it appears that she may do so only if she has declared a civil preparedness emergency. Under current law, the governor may already, during a civil preparedness emergency, take steps that are reasonably necessary to protect the health of state residents and may modify and suspend laws for certain occurrences, which may include situations affecting public health. Consequently, the legal effect of this provision is unclear.

EFFECTIVE DATE: October 1, 2010

BACKGROUND***Civil Preparedness Emergency***

The law defines a "civil preparedness emergency" as an emergency declared by the governor "in the event of a serious disaster, enemy attack, sabotage or other hostile action within the state or a neighboring state or in the event of the imminence thereof" (CGS § 28-1(7)).

Governor's Authority to Declare a Public Health Emergency (CGS § 19a-131a et seq.)

Under existing law, the governor may declare a statewide or regional public health emergency after she makes a good faith effort to inform legislative leaders. She may do this when a communicable disease, other than a sexually transmitted disease, or contamination that poses a substantial risk of a significant number of human fatalities or permanent or long-term disabilities occurs or is an imminent threat. The disease or contamination must be caused by, or the governor must believe it is caused by, bioterrorism, an epidemic or pandemic disease, a natural disaster, or a chemical or nuclear attack or accident.

The governor’s declaration must state the nature of the emergency, the towns or geographic areas subject to the declaration, the conditions that create the emergency and how long it will last, and the public health authority responding to the emergency.

The bill allows six members of a 10-member legislative committee to vote to disapprove and nullify a declaration.

When she declares a public health emergency, the governor may (1) order the public health commissioner to implement all or part of the public health emergency response plan and vaccinate people and (2) authorize him to isolate or quarantine people. She can also apply for and receive federal help.

The governor must ensure that the declaration and any orders issued under it are published in full at least once in a newspaper with general circulation in each county, provided to news media, and posted on the state’s website. But failure to take any of these actions does not invalidate the declaration or orders.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute Change of Reference
Yea 22 Nay 0 (02/25/2010)

Public Health Committee

Joint Favorable

Yea 29 Nay 0 (03/15/2010)