



# House of Representatives

General Assembly

**File No. 297**

January Session, 2021

Substitute House Bill No. 5759

*House of Representatives, April 7, 2021*

The Committee on Commerce reported through REP. SIMMONS, C. of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT REQUIRING NOTICE BEFORE THE IMPLEMENTATION OF ANY DECLARATION, PROCLAMATION OR ORDER THAT AFFECTS BUSINESSES.***

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

1 Section 1. Section 19a-131a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) In the event of a state-wide or regional public health emergency,  
4 the Governor shall make a good faith effort to inform the legislative  
5 leaders specified in subsection (b) of this section before declaring that  
6 the emergency exists and may do any of the following: (1) Order the  
7 commissioner to implement all or a portion of the public health  
8 emergency response plan developed pursuant to section 19a-131g; (2)  
9 authorize the commissioner to isolate or quarantine persons in  
10 accordance with section 19a-131b; (3) order the commissioner to  
11 vaccinate persons in accordance with section 19a-131e; (4) apply for and  
12 receive federal assistance; or (5) order the commissioner to suspend  
13 certain license renewal and inspection functions during the period of the

14 emergency and during the six-month period following the date the  
15 emergency is declared to be over.

16 (b) (1) Any declaration issued pursuant to this section shall become  
17 effective upon its filing with the Secretary of the State and with the  
18 clerks of the House of Representatives and Senate. The declaration shall  
19 state the nature of the public health emergency, the political  
20 subdivisions or geographic area subject to the declaration, the  
21 conditions that have brought about the public health emergency, the  
22 duration of the public health emergency and the public health authority  
23 responding to the emergency. Any such declaration issued by the  
24 Governor may be disapproved and nullified by majority vote of a  
25 committee consisting of the president pro tempore of the Senate, the  
26 speaker of the House of Representatives, the majority and minority  
27 leaders of both houses of the General Assembly and the cochairpersons  
28 and ranking members of the joint standing committee of the General  
29 Assembly having cognizance of matters relating to public health. Such  
30 disapproval shall not be effective unless filed with the Secretary of the  
31 State not later than seventy-two hours after the filing of the Governor's  
32 declaration with the Secretary of the State.

33 (2) Any declaration issued pursuant to this section may be renewed  
34 by the Governor upon its filing with the Secretary of the State and with  
35 the clerks of the House of Representatives and Senate. The renewal  
36 declaration shall state the nature of the continuing public health  
37 emergency, the political subdivisions or geographic area subject to the  
38 renewal, the conditions that have brought about the renewal  
39 declaration, the duration of the renewal declaration and the public  
40 health authority responding to the public health emergency. Any such  
41 renewal declaration issued by the Governor may be disapproved and  
42 nullified by majority vote of a committee consisting of the legislative  
43 leaders specified in subsection (b) of this section. Such disapproval shall  
44 not be effective unless filed with the Secretary of the State not later than  
45 seventy-two hours after the filing of the Governor's renewal declaration  
46 with the Secretary of the State.

47 (3) The Governor shall declare a public health emergency to be  
48 terminated before the duration stated in the declaration, upon a finding,  
49 after informing the legislative leaders specified in subsection (b) of this  
50 section, that the circumstances that caused such emergency to be  
51 declared no longer pose a substantial risk of a significant number of  
52 human fatalities or incidents of permanent or long-term disability.

53 (c) The Governor shall ensure that any declaration or order issued  
54 pursuant to the provisions of this section shall be (1) published in full at  
55 least once in a newspaper having general circulation in each county, (2)  
56 provided to news media, and (3) posted on the state Internet web site.  
57 Failure to take the actions specified in subdivisions (1) to (3), inclusive,  
58 of this subsection shall not impair the validity of such declaration or  
59 order.

60 (d) The Governor shall, to the extent possible, provide not less than  
61 five days' notice before issuing or renewing any declaration or before  
62 any order is issued or modified pursuant to sections 19a-131 to 19a-131i,  
63 inclusive, that restricts any business's ability to operate or capacity to do  
64 business, in whole or in part. Such notice shall be: (1) Published in full  
65 at least once in a newspaper having general circulation in each county,  
66 (2) provided to news media, and (3) posted on the state Internet web  
67 site. Failure to take the actions specified in subdivisions (1) to (3),  
68 inclusive, of this subsection shall not impair the validity of such  
69 declaration or order.

70 [(d)] (e) Any individual who, during the course of a public health  
71 emergency declared under this section, violates the provisions of any  
72 order issued pursuant to sections 19a-131 to 19a-131i, inclusive, or who  
73 intentionally obstructs, resists, hinders or endangers any person who is  
74 authorized to carry out, and who is engaged in an activity that carries  
75 out, any of the provisions of the order shall be fined not more than one  
76 thousand dollars or imprisoned not more than one year, or both, for  
77 each offense.

78 [(e)] (f) The commissioner may request the Attorney General to apply  
79 to the Superior Court for an order enforcing the provisions of any order

80 issued by the commissioner pursuant to sections 19a-131 to 19a-131i,  
81 inclusive, and such other equitable relief as the court deems  
82 appropriate.

83 [(f)] (g) The commissioner may delegate to an employee of the  
84 Department of Public Health or any local health director, as much of the  
85 authority of the commissioner described in this section as the  
86 commissioner determines appropriate. Such authorized employee or  
87 director shall act as an agent of the commissioner.

88 Sec. 2. Section 28-9 of the general statutes is repealed and the  
89 following is substituted in lieu thereof (*Effective from passage*):

90 (a) In the event of serious disaster, enemy attack, sabotage or other  
91 hostile action or in the event of the imminence thereof, the Governor  
92 may proclaim that a state of civil preparedness emergency exists, in  
93 which event the Governor may personally take direct operational  
94 control of any or all parts of the civil preparedness forces and functions  
95 in the state. Any such proclamation shall be effective upon filing with  
96 the Secretary of the State. Any such proclamation, or order issued  
97 pursuant thereto, issued by the Governor because of a disaster resulting  
98 from man-made cause may be disapproved by majority vote of a joint  
99 legislative committee consisting of the president pro tempore of the  
100 Senate, the speaker of the House of Representatives and the majority  
101 and minority leaders of both houses of the General Assembly, provided  
102 at least one of the minority leaders votes for such disapproval. Such  
103 disapproval shall not be effective unless filed with the Secretary of the  
104 State not later than seventy-two hours after the filing of the Governor's  
105 proclamation with the Secretary of the State. As soon as possible after  
106 such proclamation, if the General Assembly is not then in session, the  
107 Governor shall meet with the president pro tempore of the Senate, the  
108 speaker of the House of Representatives, and the majority and minority  
109 leaders of both houses of the General Assembly and shall confer with  
110 them on the advisability of calling a special session of the General  
111 Assembly.

112 (b) Upon such proclamation, the following provisions of this section

113 and the provisions of section 28-11 shall immediately become effective  
114 and shall continue in effect until the Governor proclaims the end of the  
115 civil preparedness emergency:

116 (1) Following the Governor's proclamation of a civil preparedness  
117 emergency pursuant to subsection (a) of this section or declaration of a  
118 public health emergency pursuant to section 19a-131a, as amended by  
119 this act, the Governor may modify or suspend in whole or in part, by  
120 order as hereinafter provided, any statute, regulation or requirement or  
121 part thereof whenever the Governor finds such statute, regulation or  
122 requirement, or part thereof, is in conflict with the efficient and  
123 expeditious execution of civil preparedness functions or the protection  
124 of the public health. The Governor shall specify in such order the reason  
125 or reasons therefor and any statute, regulation or requirement or part  
126 thereof to be modified or suspended and the period, not exceeding six  
127 months unless sooner revoked, during which such order shall be  
128 enforced. Any such order shall have the full force and effect of law upon  
129 the filing of the full text of such order in the office of the Secretary of the  
130 State. The Secretary of the State shall, not later than four days after  
131 receipt of the order, cause such order to be printed and published in full  
132 in at least one issue of a newspaper published in each county and having  
133 general circulation therein, but failure to publish shall not impair the  
134 validity of such order. Any statute, regulation or requirement, or part  
135 thereof, inconsistent with such order shall be inoperative for the  
136 effective period of such order. Any such order shall be communicated  
137 by the Governor at the earliest date to both houses of the General  
138 Assembly.

139 (2) The Governor may order into action all or any part of the  
140 department or local or joint organizations for civil preparedness mobile  
141 support units or any other civil preparedness forces.

142 (3) The Governor shall order and enforce such blackouts and radio  
143 silences as are authorized by the United States Army or its duly  
144 designated agency and may take any other precautionary measures  
145 reasonably necessary in the light of the emergency.

146 (4) The Governor may designate such vehicles and persons as shall  
147 be permitted to move and the routes which they shall follow.

148 (5) The Governor shall take appropriate measures for protecting the  
149 health and safety of inmates of state institutions and children in schools.

150 (6) The Governor may order the evacuation of all or part of the  
151 population of stricken or threatened areas and may take such steps as  
152 are necessary for the receipt and care of such evacuees.

153 (7) The Governor may take such other steps as are reasonably  
154 necessary in the light of the emergency to protect the health, safety and  
155 welfare of the people of the state, to prevent or minimize loss or  
156 destruction of property and to minimize the effects of hostile action.

157 (8) In order to insure the automatic and effective operation of civil  
158 preparedness in the event of enemy attack, sabotage or other hostile  
159 action, or in the event of the imminence thereof, the Governor may, at  
160 the Governor's discretion, at any time prior to actual development of  
161 such conditions, issue such proclamations and executive orders as the  
162 Governor deems necessary, such proclamations and orders to become  
163 effective only under such conditions.

164 (c) The Governor shall, to the extent possible, provide not less than  
165 five days' notice before any proclamation of a civil preparedness  
166 emergency pursuant to subsection (a) of this section or issuing or  
167 modifying any order pursuant to this section or sections 28-9a and 28-  
168 11, that restricts any business' ability to operate or capacity to do  
169 business, in whole or in part. Such notice shall be: (1) Published in full  
170 at least once in a newspaper having general circulation in each county,  
171 (2) provided to news media, and (3) posted on the state Internet web  
172 site. Failure to take the actions specified in subdivisions (1) to (3),  
173 inclusive, of this subsection shall not impair the validity of such  
174 declaration or order.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	19a-131a
Sec. 2	<i>from passage</i>	28-9

**CE**      *Joint Favorable Subst.*

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:**

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Department of Administrative Services	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill requires that the Governor provide businesses five days' notice before any proclamation of a civil preparedness emergency. This notice must be published in newspapers in each county and posted on the state internet website before issuing any declaration, proclamation, or order that restricts a business's ability to operate or capacity to do business. The costs associated with publishing notice in various newspapers is estimated to be less than \$25,000.

**The Out Years**

It is anticipated that these costs would be one-time in nature.



**OLR Bill Analysis****sHB 5759*****AN ACT REQUIRING NOTICE BEFORE THE IMPLEMENTATION OF ANY DECLARATION, PROCLAMATION OR ORDER THAT AFFECTS BUSINESSES.*****SUMMARY**

This bill requires the governor, to the extent possible, to provide at least five days' notice before proclaiming a public health or civil preparedness emergency or issuing an order pursuant to such emergencies that restricts any business's ability to operate or capacity to do business, in whole or in part. It also appears to require the governor to give this notice, when possible, before the public health commissioner issues or modifies an order under a public health emergency that restricts any business's ability to operate or capacity to do business, in whole or in part. (Presumably, the commissioner would notify the governor of the intention to issue such an order.)

Under the bill, the notice must be (1) published in full at least once in a newspaper having general circulation in each county; (2) provided to news media; and (3) posted on the state website. However, the failure to take these actions does not impair the declaration's or order's validity.

By law, the governor may declare a public health emergency in the event of a statewide or regional public health emergency. He may declare a civil preparedness emergency in the event or imminent occurrence of a serious disaster, enemy attack, sabotage, or other hostile action.

Under both emergencies, the governor may, among other things, (1) issue orders modifying or suspending statutes, regulations, or requirements he finds to be in conflict with executing civil preparedness functions or protecting public health and (2) take certain property when

there is a shortage or disaster making the action necessary to protect the public (CGS §§ 28-9(b)(1) and 28-11). Under a civil preparedness emergency, he may, among other things, additionally take such other steps as are reasonably necessary in light of the emergency to protect the state population's health, safety, and welfare (CGS § 28-9(b)(7)).

EFFECTIVE DATE: Upon passage

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute

Yea 23 Nay 0 (03/22/2021)