

1 AN ACT relating to emergencies and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 39A.020 is amended to read as follows:

4 As used in KRS Chapters 39A to 39F, unless the context requires otherwise:

- 5 (1) "Adjutant general" means the executive head of the Department of Military Affairs
6 vested with general direction and control authority for the department and the
7 division of emergency management;
- 8 (2) "Catastrophe" means a disaster or series of concurrent disasters which adversely
9 affect the entire Commonwealth of Kentucky or a major geographical portion
10 thereof;
- 11 (3) "Chief executive officer" means a:
12 (a) County judge/executive of a county;
13 (b) Mayor of a consolidated local government;
14 (c) Mayor of an urban-county government;
15 (d) Chief executive officer of a charter county government;
16 (e) Chief executive officer of a unified local government; or
17 (f) Mayor of a city;
- 18 (4) "Comprehensive emergency management program" means the public safety
19 program developed, organized, implemented, administered, maintained, and
20 coordinated by the Division of Emergency Management and local emergency
21 management agencies created pursuant to the provisions of KRS Chapters 39A to
22 39F, to assess, mitigate, prepare for, respond to, or recover from, an emergency,
23 declared emergency, disaster, or catastrophe, or threat of any of those, as
24 contemplated in KRS 39A.010 or as defined in this section;
- 25 (5) "Coordination" means having and exercising primary state or local executive branch
26 oversight for the purpose of organizing, planning, and implementing;
- 27 (6) "County" means a county, urban-county government, charter county government,

- 1 consolidated local government, or unified local government;
- 2 (7) "Declared emergency" means any incident or situation declared to be an emergency
3 by executive order of the Governor, or a county judge/executive, or a mayor, or the
4 chief executive of other local governments in the Commonwealth pursuant to the
5 provisions of KRS Chapters 39A to 39F;
- 6 (8) "Director" means the director of the Division of Emergency Management of the
7 Department of Military Affairs;
- 8 (9) "Disaster" means any incident or situation declared as such by executive order of
9 the Governor, or the President of the United States, pursuant to federal law;
- 10 (10) "Disaster and emergency response" means the performance of all emergency
11 functions, other than war-related functions for which military forces are primarily
12 responsible, including, but not limited to: direction and control, incident command,
13 or management; communications; fire protection services; police services; medical
14 and health services; ambulance services; rescue; search and rescue or recovery;
15 urban search and rescue; engineering; alerting and warning services; resource
16 management; public works services; nuclear, chemical, biological, or other
17 hazardous material or substance monitoring, containment, decontamination,
18 neutralization, and disposal; emergency worker protection, site safety, site
19 operations and response planning; evacuation of persons; emergency welfare
20 services; emergency transportation; physical plant protection; temporary restoration
21 of public utility services; emergency lighting and power services; emergency public
22 information; incident investigation, hazards analysis, and damage assessment; and
23 other functions related to effective reaction to a disaster or emergency or
24 catastrophe, or the potential, threatened, or impending threat of any disaster or
25 emergency or catastrophe, together with all other activities necessary or incidental
26 to the preparation for and carrying out of the functions set out in this subsection;
- 27 (11) "Division" means the Division of Emergency Management of the Department of

1 Military Affairs;

2 (12) "Emergency" means any incident or situation which poses a major threat to public
3 safety so as to cause, or threaten to cause, loss of life, serious injury, significant
4 damage to property, or major harm to public health or the environment~~[-and which a~~
5 ~~local emergency response agency determines is beyond its capabilities];~~

6 (13) "Integrated emergency management system" means the unified and
7 multidisciplinary disaster and emergency response infrastructure developed in the
8 Commonwealth, under the coordination of the division, using methods which align
9 state or local administrative, organizational, and operational resources, to
10 accomplish the mission, goals, and objectives of the comprehensive emergency
11 management program of the Commonwealth;

12 (14) "Local disaster and emergency services organization" means that organization of
13 public and private entities developed to carry out the multiagency disaster and
14 emergency response of a city, county, urban-county or charter county pursuant to
15 KRS Chapters 39A to 39F;

16 (15) "Local emergency management agency" means the agency created, operated, and
17 maintained to coordinate the local comprehensive emergency management program
18 and disaster and emergency response of a city, county, and urban-county or charter
19 county government pursuant to KRS Chapters 39A to 39F;

20 (16) "Local emergency management director" or "Local director" means the executive
21 head of the local emergency management agency, appointed pursuant to the
22 provisions of KRS Chapters 39A to 39F;

23 (17) "State emergency management agency" means the Division of Emergency
24 Management of the Department of Military Affairs; and

25 (18) "State emergency management director" means the director of the Division of
26 Emergency Management.

27 ➔Section 2. KRS 39A.090 is amended to read as follows:

1 (1) The Governor may make, amend, and rescind any executive orders as deemed
2 necessary to carry out the provisions of KRS Chapters 39A to 39F.

3 (2) (a) Executive orders, administrative regulations, or other directives issued
4 under this chapter by the Governor shall be in effect no longer than thirty
5 (30) days unless an extension, modification, or termination is approved by
6 the General Assembly prior to the extension of any executive order or
7 directive that:

8 1. Places restrictions on the in-person meeting or places restrictions on
9 the functioning of the following:

10 a. Elementary, secondary, or postsecondary educational
11 institutions;

12 b. Private businesses or nonprofit organizations;

13 c. Political, religious, or social gatherings; or

14 d. Places of worship; or

15 2. Imposes mandatory quarantine or isolation requirements.

16 (b) All other executive orders, administrative regulations, or directives that are
17 not described in paragraph (a) of this subsection may exceed thirty (30)
18 days if requested by a chief executive officer or a legislative body of a local
19 government only for that local government and only for the period of time
20 requested by the chief executive officer or a legislative body. The chief
21 executive officer or a legislative body may make a written request for
22 extensions or early termination of the executive order.

23 (3) Upon the expiration of an executive order or other directive described in
24 subsection (2)(a) of this section declaring an emergency or other implementation
25 of powers under this chapter, the Governor shall not declare a new emergency or
26 continue to implement any of the powers enumerated in this chapter based upon
27 the same or substantially similar facts and circumstances as the original

1 declaration or implementation without the prior approval of the General
2 Assembly.

3 (4) The General Assembly, by joint resolution, may terminate a declaration of
4 emergency at any time.

5 (5) The Commonwealth waives immunity for prospective equitable and declaratory
6 relief only, under the Eleventh Amendment to the Constitution of the United
7 States for cases brought against it in federal jurisdictions pursuant to KRS
8 446.350 during emergencies declared under KRS Chapters 39A to 39F. No award
9 of monetary damages, costs, or attorney fees is waived or authorized under this
10 subsection.

11 ➔Section 3. KRS 39A.100 is amended to read as follows:

12 (1) In the event of the occurrence or threatened or impending occurrence of any of the
13 situations or events enumerated in~~contemplated by~~ KRS 39A.010, 39A.020, or
14 39A.030, the Governor may declare, in writing, that a state of emergency exists.
15 The Governor shall have and may exercise the following emergency powers during
16 the period in which the state of emergency exists:

17 (a) To enforce all laws~~[-]~~ and administrative regulations relating to disaster and
18 emergency response and to assume direct operational control of all disaster
19 and emergency response forces and activities in the Commonwealth;

20 (b) To require state agencies and to request local governments, local agencies, and
21 special districts to respond to the emergency or disaster in the manner
22 directed;

23 (c) To seize, take, or condemn property, excluding firearms and ammunition,
24 components of firearms and ammunition, or a combination thereof, for the
25 protection of the public or at the request of the President, the Armed Forces,
26 or the Federal Emergency Management Agency of the United States,
27 including:

- 1 1. All means of transportation and communication;
- 2 2. All stocks of fuel of whatever nature;
- 3 3. Food, clothing, equipment, materials, medicines, and all supplies; and
- 4 4. Facilities, including buildings and plants;
- 5 (d) To sell, lend, give, or distribute any of the property under paragraph (c) of this
- 6 subsection among the inhabitants of the Commonwealth and to account to the
- 7 State Treasurer for any funds received for the property;
- 8 (e) To make compensation for the property seized, taken, or condemned under
- 9 paragraph (c) of this subsection;
- 10 (f) To exclude all nonessential, unauthorized, disruptive, or otherwise
- 11 uncooperative personnel from the scene of the emergency, and to command
- 12 those persons or groups assembled at the scene to disperse. A person who
- 13 refuses to leave an area in which a written order of evacuation has been issued
- 14 in accordance with a written declaration of emergency or a disaster may be
- 15 forcibly removed to a place of safety or shelter, or may, if this is resisted, be
- 16 arrested by a peace officer. Forcible removal or arrest shall not be exercised as
- 17 options until all reasonable efforts for voluntary compliance have been
- 18 exhausted;
- 19 (g) To declare curfews and establish their limits;
- 20 (h) To prohibit or limit the sale or consumption of goods, excluding firearms and
- 21 ammunition, components of firearms and ammunition, or a combination
- 22 thereof, or commodities for the duration of the emergency;
- 23 (i) To grant emergency authority to pharmacists pursuant to KRS 315.500, for the
- 24 duration of the emergency;
- 25 (j) ~~Except as prohibited by this section or other law, to perform and exercise~~
- 26 ~~other functions, powers, and duties deemed necessary to promote and secure~~
- 27 ~~the safety and protection of the civilian population;~~

- 1 ~~(k)~~ To request any assistance from agencies of the United States as necessary and
2 appropriate to meet the needs of the people of the Commonwealth;~~and~~
- 3 ~~(k)~~~~(1)~~ Upon the recommendation of the Secretary of State, to declare by
4 executive order a different time~~,~~ or place~~,~~ ~~or manner~~ for holding elections
5 in an election area for which a state of emergency has been declared for part or
6 all of the election area. The election shall be held within thirty-five (35) days
7 from the date of the suspended or delayed election. **The executive order shall**
8 **remain in effect until the date of the suspended or delayed election**
9 **regardless of the time limitations in Section 2 of this Act and shall not be**
10 **changed except by action of the General Assembly.** The State Board of
11 Elections shall establish procedures for election officials to follow. Any
12 procedures established under this paragraph shall be subject to the approval of
13 the Secretary of State and the Governor by respective executive orders; **and**
- 14 **(l) Except as prohibited by this section or other law, to take action necessary to**
15 **execute those powers enumerated in paragraphs (a) to (k) of this subsection.**
- 16 (2) **Within thirty (30) days of a declared emergency, and every thirty (30) days**
17 **thereafter, the Governor shall report to the General Assembly, if in session, or to**
18 **the Legislative Research Commission if the General Assembly is not in session,**
19 **on a form provided by the Commission detailing:**
- 20 **(a) All expenditures relating to contracts issued during the emergency under**
21 **KRS 45A.085 or 45A.095, or under any provision for which a state agency**
22 **does not solicit bids or proposals for a contract; and**
- 23 **(b) All revenues received from the federal government in response to the**
24 **declared emergency, any expenditures or expenditure plan for the federal**
25 **funds by federal program, the state agency or program that was allocated**
26 **the federal funds, and any state fund expenditures required to match the**
27 **federal funds.**

1 **(3)** In the event of the occurrence or threatened or impending occurrence of any of the
2 situations or events contemplated by KRS 39A.010, 39A.020, or 39A.030, which in
3 the judgment of a local chief executive officer is of such severity or complexity as
4 to require the exercise of extraordinary emergency measures, the county
5 judge/executive of a county other than an urban-county government, or mayor of a
6 city or urban-county government, or chief executive of other local governments or
7 their designees as provided by ordinance of the affected county, city, or urban-
8 county may declare in writing that a state of emergency exists, and thereafter,
9 subject to any orders of the Governor, shall have and may exercise for the period as
10 the state of emergency exists or continues, the following emergency powers:

11 (a) To enforce all laws and administrative regulations relating to disaster and
12 emergency response and to direct all local disaster and emergency response
13 forces and operations in the affected county, city, urban-county, or charter
14 county;

15 (b) To exclude all nonessential, unauthorized, disruptive, or uncooperative
16 personnel from the scene of the emergency, and to command persons or
17 groups of persons at the scene to disperse. A person who refuses to leave an
18 area in which a written order of evacuation has been issued in accordance with
19 a written declaration of emergency or a disaster may be forcibly removed to a
20 place of safety or shelter, or may, if this is resisted, be arrested by a peace
21 officer. Forcible removal or arrest shall not be exercised as options until all
22 reasonable efforts for voluntary compliance have been exhausted;

23 (c) To declare curfews and establish their limits;

24 (d) To order immediate purchase or rental of, contract for, or otherwise procure,
25 without regard to procurement codes or budget requirements, the goods and
26 services essential for protection of public health and safety or to maintain or to
27 restore essential public services; and

1 (e) To request emergency assistance from any local government or special district
2 and, through the Governor, to request emergency assistance from any state
3 agency and to initiate requests for federal assistance as are necessary for
4 protection of public health and safety or for continuation of essential public
5 services.

6 ~~(4)(3)~~ Nothing in this section shall be construed to allow any governmental entity to
7 impose additional restrictions on the lawful possession, transfer, sale, transport,
8 carrying, storage, display, or use of firearms and ammunition or components of
9 firearms and ammunition.

10 ➔Section 4. KRS 39A.180 is amended to read as follows:

11 (1) The political subdivisions of the state and other agencies designated or appointed by
12 the Governor may make, amend, and rescind orders and promulgate administrative
13 regulations necessary for disaster and emergency response purposes, and to
14 supplement the carrying out of the provisions of this chapter, if not inconsistent
15 with any orders or administrative regulations promulgated by the Governor or by
16 any state agency exercising a power delegated to it by the Governor.

17 (2) (a) All written orders and administrative regulations promulgated by the
18 Governor, the director, or by any political subdivision or other agency
19 authorized by KRS Chapters 39A to 39F to make orders and promulgate
20 administrative regulations, shall have the full force of law and, if
21 promulgated as administrative regulations, shall follow the requirements
22 for promulgating administrative regulations under KRS Chapter 13A. All
23 written orders authorized by KRS Chapters 39A to 39F shall be~~[- when, if~~
24 ~~issued by the Governor, the director, or any state agency, a copy is]~~ filed with
25 the Legislative Research Commission~~[- or, if promulgated by an agency or~~
26 ~~political subdivision of the state, when filed in the office of the clerk of that~~
27 ~~political subdivision or agency. All existing laws, ordinances, and~~

1 administrative regulations inconsistent with the provisions of KRS Chapters
2 39A to 39F, or of any order or administrative regulation issued under the
3 authority of KRS Chapters 39A to 39F, shall be suspended during the period
4 of time and to the extent that the conflict exists].

5 **(b) The Governor may suspend a statute by executive order when an emergency**
6 **is declared under KRS Chapter 39A if:**

- 7 **1. The statute is specifically enumerated by the Governor in the executive**
8 **order; and**
9 **2. The executive order specifying the suspension is approved by the**
10 **Attorney General in writing.**

11 **(c) A statute suspension authorized in paragraph (b) of this subsection shall**
12 **only be in effect while the emergency executive order is in effect.**

13 **(d) Any existing administrative regulation that conflicts with a written order**
14 **issued under this chapter shall be amended, withdrawn, or repealed in**
15 **accordance with KRS Chapter 13A to conform with the written order.**

16 **(e) When a written order ends, any administrative regulation promulgated**
17 **under the authority of this section shall:**

- 18 **1. Become void; and**
19 **2. Be withdrawn, amended, or repealed in accordance with KRS Chapter**
20 **13A.**

21 **(3) Notwithstanding subsection (2) of this section, the Governor shall not suspend**
22 **any laws in KRS Chapters 39A to 39F or in KRS Chapter 13A.**

23 **(4) [(3)]** The law enforcement authorities of the state and of its counties, urban-
24 counties, charter counties, and cities shall enforce the written orders and
25 administrative regulations issued pursuant to KRS Chapters 39A to 39F.

26 ➔ Section 5. KRS 39A.280 is amended to read as follows:

27 (1) Disaster and emergency response functions provided by a state or local emergency

1 management agency, or any emergency management agency-supervised operating
2 units or personnel officially affiliated with a local disaster and emergency services
3 organization pursuant to KRS 39B.070, shall not, in itself, be deemed to be the
4 making of a promise, or the undertaking of a special duty, towards any person for
5 the services, or any particular level of, or manner of providing, the services; nor
6 shall the provision of or failure to provide these services be deemed to create a
7 special relationship or duty towards any person upon which an action in negligence
8 or other tort might be founded. Specifically:

9 (a) The failure to respond to a disaster or other emergency, or to undertake
10 particular inspections or types of inspections, or to maintain any particular
11 level of personnel, equipment, or facilities, shall not be a breach of any duty to
12 persons affected by any disaster or other emergency.

13 (b) When a state or local emergency management agency, or local emergency
14 management agency-supervised operating unit officially affiliated with a local
15 disaster and emergency services organization, does undertake to respond to a
16 disaster or other emergency, the failure to provide the same level or manner of
17 service, or equivalent availability or allocation of resources as may or could be
18 provided, shall not be a breach of any duty to persons affected by that disaster
19 or other emergency.

20 (c) A state or local emergency management agency, or local emergency
21 management agency-supervised operating unit officially affiliated with a local
22 disaster and emergency services organization shall not have or assume any
23 duty towards any person to adopt, use, or avoid any particular strategy or
24 tactic in responding to a disaster or other emergency.

25 (d) A state or local emergency management agency, or local emergency
26 management agency-supervised operating unit officially affiliated with a local
27 disaster and emergency services organization, in undertaking disaster and

1 emergency preparedness or prevention activities including inspections, or in
2 undertaking to respond to a disaster or other emergency, shall not have
3 voluntarily assumed any special duty with respect to any risks which were not
4 created or caused by it, nor with respect to any risks which might have existed
5 even in the absence of that activity or response, nor shall any person have a
6 right to rely on such an assumption of duty.

7 (2) Neither the state nor any political subdivision of the state, nor the agents or
8 representatives of the state or any of its political subdivisions, shall be liable for
9 personal injury or property damage sustained by any person appointed or acting as a
10 volunteer emergency management agency member, or disaster and emergency
11 services member, or disaster and emergency response worker, or member of any
12 agency engaged in any emergency management or disaster and emergency services
13 or disaster and emergency response activity. The immunity provided by this
14 subsection shall not apply to the extent that the state, a political subdivision of the
15 state, or a person or organization maintains liability insurance or self-insurance for
16 an act or omission covered by this subsection. To the extent that the state, a political
17 subdivision of the state, or a person or an organization maintains liability insurance
18 or self-insurance, sovereign immunity shall not be claimed with regard to an act or
19 omission covered by this subsection. This immunity shall not affect the right of any
20 person to receive benefits or compensation to which the person might otherwise be
21 entitled under the Workers' Compensation Law, or this chapter, or any pension law,
22 or any Act of Congress.

23 (3) Subject to subsection (6) of this section, neither the state nor any political
24 subdivision of the state nor, except in cases of willful misconduct, gross negligence,
25 or bad faith, the employees, agents, or representatives of the state or any of its
26 political divisions, nor any volunteer or auxiliary emergency management agency or
27 disaster and emergency services organization member or disaster and emergency

1 response worker or member of any agency engaged in any emergency management
2 or disaster and emergency services or disaster and emergency response activity,
3 complying with or reasonably attempting to comply with this chapter or any order
4 or administrative regulation promulgated pursuant to the provisions of this chapter,
5 or other precautionary measures enacted by any city of the state, shall be liable for
6 the death of or injury to persons, or for damage to property, as a result of that
7 activity. The immunity provided by this subsection shall not apply to the extent that
8 the state, a political subdivision of the state, or a person or organization maintains
9 liability insurance or self-insurance for an act or omission covered by this
10 subsection. To the extent that the state, a political subdivision of the state, or a
11 person or an organization maintains liability insurance or self-insurance, sovereign
12 immunity shall not be claimed with regard to an act or omission covered by this
13 subsection.

14 (4) Decisions of the director, his subordinates or employees, a local emergency
15 management director, or the local director's subordinates or employees, a rescue
16 chief or the chief's subordinates, concerning the allocation and assignment of
17 personnel and equipment, and the strategies and tactics used, shall be the exercise of
18 a discretionary, policy function for which neither the officer nor the state, county,
19 urban-county, charter county, or city, or local emergency management agency-
20 supervised operating unit formally affiliated with a local disaster and emergency
21 services organization, shall be held liable in the absence of malice or bad faith, even
22 when those decisions are made rapidly in response to the exigencies of an
23 emergency.

24 (5) Any person owning or controlling real estate or other premises who voluntarily and
25 without compensation grants a license or privilege, or otherwise permits the
26 designation or use of the whole or any part of the real estate or premises for the
27 purpose of sheltering persons during an actual, impending, mock, or practice

1 disaster or emergency, together with his or her successors in interest, shall not be
2 civilly liable for negligently causing the death of, or injury to, any person on or
3 about the real estate or premises for loss of, or damage to, the property of that
4 person. The immunity provided by this subsection shall not apply to the extent that
5 the state, a political subdivision of the state, or a person or organization maintains
6 liability insurance or self-insurance for an act or omission covered by this
7 subsection. To the extent that the state, a political subdivision of the state, or a
8 person or organization maintains liability insurance or self-insurance, sovereign
9 immunity shall not be claimed with regard to an act or omission covered by this
10 subsection.

11 (6) Subsection (3) of this section shall apply to a volunteer or auxiliary disaster and
12 emergency response worker only if the volunteer or worker is enrolled or registered
13 with a local disaster and emergency services organization or with the division in
14 accordance with the division's administrative regulations.

15 (7) While engaged in disaster and emergency response activity, volunteers and auxiliary
16 disaster and emergency response workers enrolled or registered with a local disaster
17 and emergency service organization or with the division in accordance with
18 subsection (6) of this section shall have the same degree of responsibility for their
19 actions and enjoy the same immunities as officers and employees of the state and its
20 political subdivisions performing similar work, including the provisions of KRS
21 12.211, 12.212, and 12.215, allowing the Attorney General to provide defense of
22 any civil action brought against a volunteer enrolled or registered with a local
23 disaster or emergency service organization or with the division due to an act or
24 omission made in the scope and course of a disaster and emergency response
25 activity.

26 (8) (a) Notwithstanding subsections (3) and (6) of this section, a licensed
27 professional engineer as defined in KRS 322.010 or an architect licensed

1 under KRS Chapter 323, who voluntarily and without compensation provides
2 architectural, structural, electrical, mechanical, or other professional services
3 at the scene of a declared emergency, disaster, or catastrophe, shall not be
4 liable for any personal injury, wrongful death, property damage, or other loss
5 of any nature related to the licensed professional engineer's or licensed
6 architect's acts, errors, or omissions in the performance of the services carried
7 out:

8 1. At the request of or with the approval of a federal, state, or local:

9 a. Emergency management agency official with executive
10 responsibility in the jurisdiction to coordinate disaster and
11 emergency response activity;

12 b. Fire chief or his or her designee; or

13 c. Building inspection official;

14 whom the licensed professional engineer or licensed architect believes to
15 be acting in an official capacity;

16 2. Within ninety (90) days following the end of the period for the declared
17 emergency, disaster, or catastrophe. **If the emergency is**~~[, unless]~~
18 extended **under Section 2 of this Act, the ninety (90) days shall run**
19 **from the end date of the last extension**~~[by the Governor under KRS~~
20 ~~39A.100]; and~~

21 3. If the professional services arose out of the declared emergency, disaster,
22 or catastrophe and if the licensed professional engineer or licensed
23 architect acted as an ordinary reasonably prudent member of the
24 profession would have acted under the same or similar circumstances.

25 (b) Nothing in this subsection shall provide immunity for wanton, willful, or
26 intentional misconduct.

27 ➔Section 6. KRS 39A.990 is amended to read as follows:

Any person violating any provision of this chapter or any administrative regulation or order promulgated pursuant to this chapter for which another penalty is not specified shall be **fin**~~ed an amount not to exceed one hundred dollars (\$100) for a first offense and not to exceed two hundred fifty dollars (\$250) for each subsequent offense~~^[guilty of a Class A misdemeanor].

➔ Section 7. KRS 241.090 is amended to read as follows:

State administrators and all investigators shall have the full police powers of peace officers, and their jurisdiction shall be coextensive with the state. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant. They may confiscate any contraband property. **The jurisdiction and police powers of state administrators and all investigators during an emergency declared under KRS Chapter 39A shall be subject to the limitations of Section 2 of this Act.**

➔ Section 8. KRS 315.500 is amended to read as follows:

(1) When the Governor declares a state of emergency pursuant to KRS 39A.100, the Governor may issue an executive order for a period of up to thirty (30) days giving pharmacists emergency authority. The executive order shall designate the geographical area to which it applies. In the executive order, the Governor may vest pharmacists with the authority to:

- (a) Dispense up to a thirty (30) day emergency supply of medication;
- (b) Administer immunizations to children pursuant to protocols established by the Centers for Disease Control and Prevention, the National Institutes of Health, or the National Advisory Committee on Immunization Practices or determined to be appropriate by the commissioner of public health or his or her designee;
- (c) Operate temporarily, a pharmacy in an area not designated on the pharmacy permit; and
- (d) Dispense drugs as needed to prevent or treat the disease or ailment responsible

1 for the emergency pursuant to protocols established by the Centers for Disease
2 Control and Prevention or the National Institutes of Health or determined to
3 be appropriate by the commissioner of public health or his or her designee to
4 respond to the circumstances causing the emergency.

5 (2) The provisions of this section may be extended, in writing, by the Governor if
6 necessary to protect the lives or welfare of the citizens.

7 **(3) Nothing in this section shall be affected by the requirements of Section 2 of this**
8 **Act.**

9 ➔Section 9. KRS 367.374 is amended to read as follows:

10 (1) (a) When a Condition Red has been declared by the United States Department of
11 Homeland Security under the Homeland Security Advisory System or the
12 Governor has declared a state of emergency under KRS 39A.100, the
13 Governor may implement this section by executive order for a period of
14 fifteen (15) days from notification of implementation, as required by KRS
15 367.376. The order implementing this section shall be limited to the
16 geographical area indicated in the declaration of emergency. The Governor
17 may terminate or limit the scope of the order at any time.

18 (b) No person shall sell, rent, or offer to sell or rent, regardless of whether an
19 actual sale or rental occurs, a good or service listed in this paragraph or any
20 repair or reconstruction service for a price which is grossly in excess of the
21 price prior to the declaration and unrelated to any increased cost to the seller.
22 Goods and services to which this section applies are:

- 23 1. Consumer food items;
- 24 2. Goods or services used for emergency cleanup;
- 25 3. Emergency supplies;
- 26 4. Medical supplies;
- 27 5. Home heating oil;

- 1 6. Building materials;
- 2 7. Housing;
- 3 8. Transportation, freight, and storage services; and
- 4 9. Gasoline or other motor fuels.

5 (c) A person's price does not violate this subsection if it is:

- 6 1. Related to an additional cost imposed by a supplier of a good or other
7 costs of providing the good or service, including an additional cost for
8 labor or materials used to provide a service;
- 9 2. Ten percent (10%) or less above the price prior to the declaration;
- 10 3. Ten percent (10%) or less above the sum of the person's costs and
11 normal markup for a good or service;
- 12 4. Generally consistent with fluctuations in applicable commodity,
13 regional, national, or international markets, or seasonal fluctuations; or
- 14 5. A contract price, or the result of a price formula, established prior to the
15 order implementing this subsection.

16 (d) Whether a price violates this subsection is a question of law. In determining if
17 a violation of this subsection has occurred, the court shall consider all relevant
18 circumstances, including prices prevailing in the locality at that time.

19 (2) The provisions of this section may be extended for up to three (3) additional fifteen
20 (15) day periods by the Governor, if necessary to protect the lives, property, or
21 welfare of the citizens.

22 (3) If a person sold or rented a good or service listed in subsection (1) of this section at
23 a reduced price in the thirty (30) days prior to the Governor's implementation of this
24 section, the price at which that person usually sells or rents the good or service in
25 the area for which the declaration was issued shall be used in determining if the
26 person is in violation of this section.

27 (4) If a person did not sell or rent or offer to sell or rent a good or service listed in

1 subsection (1) of this section prior to the Governor's implementation of this section,
2 the price at which a good or service was generally available in the area for which
3 the declaration was issued shall be used in determining if the person is in violation
4 of this section.

5 **(5) Nothing in this section shall be affected by the requirements of Section 2 of this**
6 **Act.**

7 ➔Section 10. It is the intent of the General Assembly that if any part of this Act
8 be held unconstitutional, the remaining parts shall remain in force.

9 ➔Section 11. Whereas the impact of the state of emergency declared in response
10 to COVID-19 on Kentucky's citizens and businesses is of the utmost importance, an
11 emergency is declared to exist, and this Act takes effect upon its passage and approval by
12 the Governor or upon its otherwise becoming law.