

1 SB97  
2 211774-2  
3 By Senators Whatley, Barfoot, Jones, Chesteen, Gudger, Orr,  
4 Scofield, Givhan, Elliott, Livingston, Allen, Shelnut,tt,  
5 Albritton, McClendon, Sessions and Marsh  
6 RFD: Judiciary  
7 First Read: 02-FEB-21  
8 PFD: 01/27/2021

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to states of emergency; to amend Sections  
12 22-2-8, Code of Alabama 1975, to provide that an order or  
13 directive issued by the State Health Officer relating to the  
14 outbreak of a disease or pandemic has the full force and  
15 effect of law once it is approved by the Governor and a copy  
16 is filed with the Secretary of State; to amend Section 31-9-8,  
17 and 31-9-13, Code of Alabama 1975; to provide that a state of  
18 emergency terminates after 45 days and provide that certain  
19 states of emergency may only be extended beyond 120 days by  
20 joint resolution of the Legislature; to further provide for  
21 requesting a special session during a state of emergency; to  
22 further provide for the Governor's authority to issue and  
23 approve directives during a state of emergency; to limit  
24 certain orders mandating vaccinations; to repeal Section  
25 11-47-132, Code of Alabama 1975, which authorizes  
26 municipalities to adopt and enforce ordinances to compel  
27 certain vaccinations; and to make nonsubstantive, technical

1 revisions to update the existing code language to current  
2 style.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 22-2-8, 31-9-8, and 31-9-13,  
5 Code of Alabama 1975, are amended to read as follows:

6 "§22-2-8.

7 "(a) The State Committee of Public Health shall  
8 elect an executive officer who shall be a physician licensed  
9 in the State of Alabama to be known as the State Health  
10 Officer and shall fix his or her term of office and salary.  
11 The qualifications of this individual shall be determined by  
12 the State Committee of Public Health. Before entering upon the  
13 duties of ~~his~~ the office, the State Health Officer shall  
14 execute to the State of Alabama a bond, to be approved by the  
15 Governor, in the amount of five thousand dollars (\$5,000.00),  
16 for the faithful performance of ~~his~~ the duties of the office.

17 "(b) The State Health Officer so elected ~~shall~~,  
18 under the direction of the State Committee of Public Health  
19 and with the approval of the State Personnel Board, shall fix  
20 the salaries of the medical employees of the State Committee  
21 of Public Health. When the State Committee of Public Health is  
22 not in session, the State Health Officer, as executive officer  
23 of the Department of Public Health, shall act for ~~said the~~ the  
24 committee and shall have and discharge all the prerogatives  
25 and duties of ~~said the~~ the committee. ~~He~~ The State Health Officer  
26 shall report his or her actions to the committee at its next  
27 meeting after ~~such the~~ the action is taken, and ~~such the~~ the action of

1 ~~the State Health Officer~~ shall then be subject to confirmation  
2 or modification by the committee. The State Health Officer  
3 shall exercise general supervision over county boards of  
4 health and county health officers and promptly report to ~~said~~  
5 the county boards of health any delinquencies of official duty  
6 on the part of ~~said the~~ county health officers which may come  
7 to his or her knowledge, ~~keep himself informed in regard to~~  
8 ~~all diseases which may be in danger of invading the state~~

9 "(c) The State Health Officer shall stay informed  
10 with regard to an actual or potential outbreak of any disease  
11 or pandemic affecting this state and, as far as authorized by  
12 law, take prompt measures to prevent ~~such invasions~~ an  
13 outbreak and keep the Governor and the Legislature informed as  
14 to the health conditions prevailing in the state, especially  
15 as to outbreaks of any of the diseases enumerated in Chapter  
16 ~~11 of this title~~, and submit to the Governor and Legislature  
17 ~~such~~ recommendations as he or she deems proper to control,  
18 prevent, or minimize ~~such outbreaks.~~ an outbreak. If a state  
19 public health emergency has been declared pursuant to Section  
20 31-9-8, any order or other directive issued by the State  
21 Health Officer to control, prevent, or minimize an outbreak of  
22 any disease or pandemic may not take effect unless and until  
23 the order or directive is approved by the Governor and a copy  
24 of the approved order or directive is filed in the Office of  
25 the Secretary of State, at which time the order or directive  
26 has the full force and effect of law. Any order or other  
27 directive issued pursuant to the authority granted under this

1 subsection is subject to the prohibition described in  
2 paragraph (f) (2)b. of Section 31-9-8.

3 "§31-9-8.

4 "(a) ~~The provisions of this~~ This section shall be  
5 operative only during the existence of a state of emergency,  
6 referred to ~~hereinafter~~ as one of the states of emergency  
7 defined in Section 31-9-3. The existence of a state of  
8 emergency may be proclaimed by the Governor as provided in  
9 this subsection or by joint resolution of the Legislature if  
10 the Governor in the proclamation, or the Legislature in the  
11 resolution, finds that an attack upon the United States has  
12 ~~occurred or is anticipated in the immediate future, or that a~~  
13 ~~natural disaster of major proportions or a public health~~  
14 ~~emergency has occurred or is reasonably anticipated in the~~  
15 ~~immediate future within this state and that the safety and~~  
16 ~~welfare of the inhabitants of this state require~~ describes,  
17 with reasonable particularity, the basis for the state of  
18 emergency justifying an invocation of the provisions of this  
19 section. If the state of emergency affects less than the  
20 entire state, the Governor or the Legislature shall designate  
21 in the proclamation or joint resolution those counties to  
22 which the state of emergency applies.

23 "(b) (1) A state of emergency, whether proclaimed  
24 by the Governor or by the Legislature, shall terminate 60 45  
25 days after the date on which it was proclaimed, unless the The  
26 Governor, extends the emergency by proclamation, or the  
27 Legislature, extends the emergency by passage of a joint

1 resolution may extend a state of emergency for a total period  
2 up to 120 days, after which a state of emergency may only be  
3 further extended by the Legislature through passage of a joint  
4 resolution.

5 "(2) Notwithstanding subdivision (1), the Governor,  
6 by proclamation, may extend, without limit, a state of  
7 emergency that affects less than one-third of all counties in  
8 the state, that is in response to an oil spill, or that is in  
9 response to a weather-related event, including, but not  
10 limited to, a hurricane, tornado, drought, or flood.

11 "(c) Upon proclamation by the Governor of a state of  
12 emergency, the Governor may call the Legislature into special  
13 session. Additionally, the Lieutenant Governor, President Pro  
14 Tempore of the Senate, or the Speaker of the House of  
15 Representatives may request in writing that the Governor call  
16 the Legislature into special session.

17 "(d) During the period that the ~~proclaimed~~ state of  
18 emergency exists or continues, the Governor shall have and may  
19 exercise the following additional emergency powers:

20 "(1) To enforce all laws, and rules, ~~and regulations~~  
21 relating to emergency management and to assume direct  
22 operational control of all emergency management forces and  
23 helpers in the state.

24 "(2) To sell, lend, lease, give, transfer, or  
25 deliver materials or perform services for emergency management  
26 purposes on such terms and conditions as the Governor shall  
27 prescribe and without regard to the limitations of any

1 existing law, and to account to the State Treasurer for any  
2 funds received for such property.

3 "(3) To procure, by purchase, condemnation, seizure,  
4 or other means, construct, lease, transport, store, maintain,  
5 renovate, or distribute materials and facilities for emergency  
6 management without regard to the limitations of any existing  
7 law; provided, that this authority shall not be exercised with  
8 regard to newspapers, wire facilities leased or owned by news  
9 services, and other news publications, and provided further,  
10 that he or she shall make compensation for the property so  
11 seized, taken, or condemned, on the following basis:

12 "a. ~~In case~~ If property is taken for temporary use,  
13 the Governor, within 30 days of the taking, shall fix the  
14 amount of compensation to be paid ~~therefor~~ for use of the  
15 property, and ~~in case~~ if the property ~~shall be~~ is returned to  
16 the owner in a damaged condition, or ~~shall not be~~ is not  
17 returned to the owner, the Governor shall fix within 30 days  
18 the amount of compensation to be paid for the damage or  
19 failure to return. Whenever the Governor ~~shall deem~~ deems it  
20 advisable for the state to take title to property taken under  
21 this section, he or she shall ~~forthwith cause the owner of the~~  
22 ~~property to be notified thereof~~ immediately notify the  
23 property owner in writing by registered or certified mail,  
24 postage prepaid, or by the best available means, and ~~forthwith~~  
25 ~~cause to be filed~~ file a copy of the notice with the Secretary  
26 of State.

1            "b. If the person entitled to receive the amount so  
2 determined by the Governor as just compensation is unwilling  
3 to accept the same as full and complete compensation for ~~such~~  
4 the property or the use thereof, he or she shall be paid 75  
5 percent of such amount and shall be entitled to recover from  
6 the State of Alabama, in an action brought in a court in the  
7 county of residence of the claimant or in Montgomery County,  
8 in the same manner as other condemnation claims are brought,  
9 within three years after the date of the Governor's award,  
10 such additional amount, if any, which when added to the amount  
11 so paid to him or her, shall be just compensation.

12            "(4) To provide for and compel the evacuation of all  
13 or part of the population from any stricken or threatened area  
14 or areas within the state and to take ~~such~~ steps as are  
15 necessary for the receipt and care of such evacuees.

16            "(5) ~~To~~ Subject to subsection (g), to perform and  
17 exercise ~~such~~ other functions, powers, and duties as are  
18 necessary to promote and secure the safety and protection of  
19 the civilian population if reasonably related to preventing,  
20 mitigating, or otherwise responding to the conditions  
21 described in the proclamation or joint resolution warranting  
22 the declaration of a state of emergency.

23            "(6) To employ ~~such~~ measures and give ~~such~~  
24 directions to the state or local boards of health as may be  
25 reasonably necessary for the purpose of securing compliance  
26 with ~~the provisions of~~ this article or with the findings or  
27 recommendations of ~~such~~ the boards of health by reason of



1 conditions arising from enemy attack or the threat of enemy  
2 attack or otherwise.

3 "(7) To utilize the services and facilities of  
4 existing officers and agencies of the state and of the  
5 political subdivisions thereof. All such officers and agencies  
6 shall cooperate with and extend their services and facilities  
7 to the Governor as he or she may request.

8 "(8) With due consideration to the recommendations  
9 of local authorities, the Governor may formulate and execute  
10 plans and regulations for the control of traffic in order to  
11 provide for the rapid and safe movement of evacuation over  
12 public highways and streets of people, troops, or vehicles and  
13 materials for national defense or for use in any defense  
14 industry, and may coordinate the activities of the departments  
15 or agencies of the state and of the political subdivisions  
16 thereof concerned directly or indirectly with public highways  
17 and streets, in a manner ~~which~~ that will best effectuate ~~such~~  
18 the plans.

19 "(9) To establish agencies and offices and to  
20 appoint temporary executive, technical, clerical, and other  
21 personnel as may be necessary to carry out ~~the provisions of~~  
22 this article without regard to the State Merit System Act.

23 "~~(b)~~ (e) The proclamation of a state ~~of~~ public  
24 health emergency shall activate the disaster response and  
25 recovery aspects of the state, local, and inter-jurisdictional  
26 disaster emergency plans in the affected political  
27 subdivisions or geographic areas. Such declaration authorizes

1 the deployment and use of any forces to which the plans apply  
2 and the use or distribution of any supplies, equipment, and  
3 materials and facilities assembled, stockpiled, or available  
4 pursuant to this article.

5 ~~"(c)~~ (f) (1) When a state of public health emergency  
6 has been declared or terminated, the State Board of Health  
7 shall inform members of the public on how to protect  
8 themselves and what actions are being taken to control the  
9 emergency.

10 "(2)a. When a state public health emergency has been  
11 declared, any order or other directive issued by the State  
12 Health Officer pursuant to the authority granted under Title  
13 22 to abate any condition prejudicial to public health or  
14 otherwise control, prevent, or minimize an outbreak of any  
15 disease or pandemic may not take effect unless and until the  
16 order or directive is approved by the Governor and filed with  
17 the Secretary of State, as provided in Section 22-2-8.

18 "b. Notwithstanding paragraph a., under no  
19 circumstances may the Governor or the State Health Officer,  
20 during a state of emergency, order the vaccination of  
21 individuals over an assertion made that the vaccination cannot  
22 be administered because of a bona fide medical condition or is  
23 contrary to a bona fide religious belief or otherwise  
24 sincerely held personal belief.

25 "(g) During a state public health emergency, before  
26 the Governor may issue any proclamation, rule, order, or other  
27 directive pursuant to subdivision (d) (5) or approve any order

1 or other directive pursuant to subsection (c) of Section  
2 22-2-8, which directive would restrict, limit, or otherwise  
3 burden the conduct of private citizens or businesses, he or  
4 she shall make a good faith attempt to consult with members of  
5 the Legislative Council regarding the content, scope, and  
6 purpose of the directive.

7           "~~(d)~~ (h) (1) Nothing in this section shall authorize  
8 the seizure or confiscation of any firearm or ammunition from  
9 any individual who is lawfully carrying or possessing the  
10 firearm or ammunition except as provided in subdivision (2).

11           "(2) A law enforcement officer who is acting in the  
12 lawful discharge of the officer's official duties may disarm  
13 an individual if the officer reasonably believes that it is  
14 immediately necessary for the protection of the officer or  
15 another individual. The officer shall return the firearm to  
16 the individual before discharging that individual unless the  
17 officer arrests that individual for engaging in criminal  
18 activity or seizes the firearm as evidence pursuant to an  
19 investigation for the commission of a crime or, at the  
20 discretion of the officer, the individual poses a threat to  
21 himself or herself or to others.

22           "§31-9-13.

23           "All orders, rules, ~~and regulations promulgated or~~  
24 other directives issued by the Governor as authorized by this  
25 article shall have the full force and effect of law when a  
26 copy thereof is filed in the office of the Secretary of State.  
27 All existing laws, ordinances, rules, and regulations or parts

1       thereof inconsistent with the provisions of this article or of  
2       any proclamation, order, rule, or ~~regulation~~ other directive  
3       issued under the authority of this article, shall be suspended  
4       during the period of time and to the extent that such  
5       inconsistency exists. The Secretary of State shall cause to be  
6       printed and distributed to the ~~probate~~ judges of probate of  
7       the several counties and to the clerks of the several  
8       municipalities of this state a copy of each proclamation,  
9       order, rule, or ~~regulation~~ other directive issued under the  
10      authority of this article."

11               Section 2. Section 11-47-132, Code of Alabama 1975,  
12      providing for a system of compulsory vaccination by cities and  
13      towns, is repealed.

14               Section 3. This act shall become effective January  
15      1, 2022, upon its passage and approval by the Governor, or its  
16      otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Judiciary..... 02-FEB-21

Read for the second time and placed on the calen-  
dar..... 03-FEB-21

Read for the third time and passed as amended .... 01-APR-21

Yeas 24  
Nays 8

Patrick Harris,  
Secretary.