

STATE OF NEW YORK

8326

IN SENATE

May 11, 2020

Introduced by Sen. HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, in relation to eliminating the powers of the governor to issue any directive necessary to respond to a state disaster

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 29-a of the executive law, as amended by chapter 23
2 of the laws of 2020, is amended to read as follows:

3 § 29-a. Suspension of other laws. 1. Subject to the state constitu-
4 tion, the federal constitution and federal statutes and regulations, the
5 governor may by executive order temporarily suspend any statute, local
6 law, ordinance, or orders, rules or regulations, or parts thereof, of
7 any agency during a state disaster emergency, if compliance with such
8 provisions would prevent, hinder, or delay action necessary to cope with
9 the disaster or if necessary to assist or aid in coping with such disaster.
10 ~~[The governor, by executive order, may issue any directive during a~~
11 ~~state disaster emergency declared in the following instances: fire,~~
12 ~~flood, earthquake, hurricane, tornado, high water, landslide, mudslide,~~
13 ~~wind, storm, wave action, volcanic activity, epidemic, disease outbreak,~~
14 ~~air contamination, terrorism, cyber event, blight, drought, infestation,~~
15 ~~explosion, radiological accident, nuclear, chemical, biological, or~~
16 ~~bacteriological release, water contamination, bridge failure or bridge~~
17 ~~collapse. Any such directive must be necessary to cope with the disaster~~
18 ~~and may provide for procedures reasonably necessary to enforce such~~
19 ~~directive.]~~

20 2. Suspensions pursuant to subdivision one of this section shall be
21 subject to the following standards and limits~~[-, which shall apply to any~~
22 ~~directive where specifically indicated]:~~

23 a. no suspension [~~or directive~~] shall be made for a period in excess
24 of thirty days, provided, however, that upon reconsideration of all of
25 the relevant facts and circumstances, the governor may extend the
26 suspension for additional periods not to exceed thirty days each;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 b. no suspension [~~ex-directive~~] shall be made which is not in the
2 interest of the health or welfare of the public and which is not reason-
3 ably necessary to aid the disaster effort;

4 c. any such suspension order shall specify the statute, local law,
5 ordinance, order, rule or regulation or part thereof to be suspended and
6 the terms and conditions of the suspension;

7 d. the order may provide for such suspension only under particular
8 circumstances, and may provide for the alteration or modification of the
9 requirements of such statute, local law, ordinance, order, rule or regu-
10 lation suspended, and may include other terms and conditions;

11 e. any such suspension order [~~ex-directive~~] shall provide for the
12 minimum deviation from the requirements of the statute, local law, ordi-
13 nance, order, rule or regulation suspended consistent with the goals of
14 the disaster action deemed necessary; and

15 f. when practicable, specialists shall be assigned to assist with the
16 related emergency actions to avoid needless adverse effects resulting
17 from such suspension.

18 3. Such suspensions [~~ex-directives~~] shall be effective from the time
19 and in the manner prescribed in such orders and shall be published as
20 soon as practicable in the state bulletin.

21 4. The legislature may terminate by concurrent resolution executive
22 orders issued under this section at any time.

23 § 2. This act shall take effect immediately; provided, however, that
24 the amendments to section 29-a of the executive law made by section one
25 of this act shall not affect the expiration of such section and shall be
26 deemed to expire therewith.