



STATE OF GEORGIA
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M E M O R A N D U M

To: Members of the Georgia General Assembly

From: Georgia Governor's Office

Cc: Attorney General Chris Carr

Date: March 15, 2020

Re: Public Health State of Emergency

What is a Public Health Emergency?

Under O.C.G.A. § 38-3-3(6), a “Public health emergency” means the occurrence or imminent threat of an *illness* or health condition that is reasonably believed to be caused by bioterrorism or *the appearance of a novel* or previously controlled or eradicated *infectious agent* or biological toxin and poses a high probability of any of the following harms:

- (A) *A large number of deaths in the affected population;*
- (B) A large number of serious or long-term disabilities in the affected population; or
- (C) Widespread exposure to an infectious or toxic agent that poses a significant risk of *substantial future harm to a large number of people* in the affected population.”

What are the Governor's powers during a Public Health Emergency?

O.C.G.A § 38-3-51 enumerates the powers that the Governor has during any declared state of emergency. Certain additional powers are specifically granted only during a declared public health emergency. Below is a list of the powers granted to the Governor during any state of emergency followed by a separate list of the powers granted specifically in the case of a public health emergency. *Under no state of emergency, whether “general” or “public health,” does the Governor have the power to interfere with the sale, dispensing, or transport of firearms, ammunition, or any component thereof.*

Under a General State of Emergency, the Governor has the power:

- (1) To enforce all laws, rules, and regulations relating to emergency management and to assume direct operational control of all civil forces and helpers in the state.
- (2) To seize, take for temporary use, or condemn property for the protection of the public *in accordance with condemnation proceedings as provided by law.*

- (3) To perform and exercise such other functions, powers, and duties as may be deemed necessary to promote and secure the safety and protection of the civilian population.
- (4) To suspend any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.
- (5) To utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the emergency.
- (6) To transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services.
- (7) To temporarily use private property if he finds this necessary to cope with the emergency.
- (8) To direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery.
- (9) To prescribe routes, modes of transportation, and destinations in connection with evacuation.
- (10) To control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein.
- (11) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, or combustibles (this does **NOT** include firearms or ammunition).
- (12) To make provision for the availability and use of temporary emergency housing.

During a Public Health State Emergency, the Governor has these *additional* powers:

- (1) To compel a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary for emergency response. The use of such health care facility may include transferring the management and supervision of the health care facility to the Department of Public Health for a limited or unlimited period of time not extending beyond the termination of the public health emergency.
- (2) To implement a mandatory vaccination or quarantine program (*subject to statutory due process procedure for anyone objecting*).
 - Note that DPH already has the authority to mandate quarantine and vaccinations whether a state of emergency exists or not under O.C.G.A. § 31-12-4 and O.C.G.A. § 31-12-3(a), respectively.
- (3) To direct the Department of Public Health to coordinate all matters pertaining to the response of the state to a public health emergency including without limitation:
 - Planning and executing public health emergency assessments, mitigation, preparedness response, and recovery for the state.
 - Coordinating public health emergency responses between state and local authorities.
 - Collaborating with appropriate federal government authorities, elected officials of other states, private organizations, or private sector companies.
 - Coordinating recovery operations and mitigation initiatives.
 - Organizing public information activities regarding state public health emergency response operations.
 - Providing for special identification for public health personnel involved in a public health emergency.