

ASSEMBLY REPUBLICAN FLOOR AMENDMENT

SUBJECT: EARLY REVOCATION OF THE GOVERNOR'S EMERGENCY COVID-19 POWERS

OFFERED BY:

DATE: March 1, 2021

AMENDMENT TO BILL NUMBER: A.3397 (Kim)

DECISION CHAIR:

VOTE:

DESCRIPTION OF THE BILL-IN-CHIEF

The bill-in-chief completely repeals Article 30-D of the Public Health Law (PHL) which established the Emergency or Disaster Treatment Protection Act, which grants extensive liability protections to health care facilities and health care practitioners from harms or damages incurred during the COVID-19 public health emergency.

DESCRIPTION OF AMENDMENT

This amendment would add provisions of S.4888 (Biaggi) to the bill-in-chief in order to provide for the early revocation of the emergency powers granted to the Governor by Chapter 23 of the Laws of 2020 last March. Specifically, the changes provided by this amendment would modify the definition of disaster and remove from section 29-a of the Executive Law the authority of the Governor to issue directives during certain emergency situations.

STATE OF NEW YORK

3397

2021-2022 Regular Sessions

IN ASSEMBLY

January 26, 2021

Introduced by M. of A. KIM, EPSTEIN, JACOBSON, GOTTFRIED, BYRNES, MONTESANO, NIOU, GLICK, L. ROSENTHAL, BARRON, GRIFFIN, McDONOUGH, STECK, CARROLL, CYMBROWITZ, HEVESI, SIMON, QUART -- read once and referred to the Committee on Health

AN ACT to repeal article 30-d of the public health law relating to the emergency or disaster treatment protection act

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

- 1 Section 1. ~~Article 30-d~~ of the public health law is REPEALED.
- 2 § 2. This act shall take effect ~~immediately.~~

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

LBD02984-01-1



PRINTED ON RECYCLED PAPER

LBDC

M93:

PUBHEALA

By

Amend ASSEMBLY BILL NO. 3397 as follows:

Strike out all after the enacting clause and insert

1 Section 1. Article 30-d of the public health law is REPEALED.
2 § 2. Paragraph a of subdivision 2 of section 20 of the executive law,
3 as amended by chapter 23 of the laws of 2020, is amended to read
4 follows:

5 a. "disaster" means occurrence or imminent[, impending or urgent]
6 threat of wide spread or severe damage, injury, or loss of life or prop-
7 erty resulting from any natural or man-made causes, including, but not
8 limited to, fire, flood, earthquake, hurricane, tornado, high water,
9 landslide, mudslide, wind, storm, wave action, volcanic activity,
10 epidemic, [disease outbreak,] air contamination, terrorism, cyber event,
11 blight, drought, infestation, explosion, radiological accident, nuclear,
12 chemical, biological, or bacteriological release, water contamination,
13 bridge failure or bridge collapse.

14 § 3. Section 29-a of the executive law, as amended by chapter 23 of
15 the laws of 2020, is amended to read as follows:

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

33 2. Suspensions pursuant to subdivision one of this section shall be
34 subject to the following standards and limits[, which shall apply to any
35 directive where specifically indicated]:

36 a. no suspension [or directive] shall be made for a period in excess
37 of thirty days, provided, however, that upon reconsideration of all of

1 the relevant facts and circumstances, the governor may extend the
2 suspension for additional periods not to exceed thirty days each;

3 b. no suspension [or directive] shall be made which [is not in the
4 interest of] does not safeguard the health [or] and welfare of the
5 public and which is not reasonably necessary to aid the disaster effort;

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

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

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

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

20 3. Such suspensions [or directives] shall be effective from the time
21 and in the manner prescribed in such orders and shall be published as
22 soon as practicable in the state bulletin.

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

25 § 4. This act shall take effect immediately; provided however, that
26 the amendments to paragraph a of subdivision 2 of section 20 of the
27 executive law made by section two of this act and the amendment to
28 section 29-a of the executive law made by section three of this act
29 shall not affect the expiration of such paragraph and such section and
30 shall be deemed to expire therewith.

ASSEMBLY REPUBLICAN FLOOR AMENDMENT

SUBJECT: EARLY REVOCATION OF THE GOVERNOR'S EMERGENCY COVID-19 POWERS

OFFERED BY:

DATE: March 1, 2021

AMENDMENT TO BILL NUMBER: S.5177 (Biaggi)

DECISION CHAIR:

VOTE:

DESCRIPTION OF THE BILL-IN-CHIEF

The bill-in-chief completely repeals Article 30-D of the Public Health Law (PHL) which established the Emergency or Disaster Treatment Protection Act, which grants extensive liability protections to health care facilities and health care practitioners from harms or damages incurred during the COVID-19 public health emergency.

DESCRIPTION OF AMENDMENT

This amendment would add provisions of S.4888 (Biaggi) to the bill-in-chief in order to provide for the early revocation of the emergency powers granted to the Governor by Chapter 23 of the Laws of 2020 last March. Specifically, the changes provided by this amendment would modify the definition of disaster and remove from section 29-a of the Executive Law the authority of the Governor to issue directives during certain emergency situations.

STATE OF NEW YORK

5177

2021-2022 Regular Sessions

IN SENATE

February 25, 2021

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to repeal article 30-d of the public health law relating to the emergency or disaster treatment protection act

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

- 1 Section 1. Article 30-d of the public health law is REPEALED.
- 2 § 2. This act shall take effect immediately.

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

LED02984-01-1



PRINTED ON RECYCLED PAPER

LBDC

M93:

PUBHEALA

By

Amend SENATE BILL NO. 5177 as follows:

Strike out all after the enacting clause and insert

1 Section 1. Article 30-d of the public health law is REPEALED.

2 § 2. Paragraph a of subdivision 2 of section 20 of the executive law,
3 as amended by chapter 23 of the laws of 2020, is amended to read
4 follows:

5 a. "disaster" means occurrence or imminent[, impending or urgent]
6 threat of wide spread or severe damage, injury, or loss of life or prop-
7 erty resulting from any natural or man-made causes, including, but not
8 limited to, fire, flood, earthquake, hurricane, tornado, high water,
9 landslide, mudslide, wind, storm, wave action, volcanic activity,
10 epidemic, [disease outbreak,] air contamination, terrorism, cyber event,
11 blight, drought, infestation, explosion, radiological accident, nuclear,
12 chemical, biological, or bacteriological release, water contamination,
13 bridge failure or bridge collapse.

14 § 3. Section 29-a of the executive law, as amended by chapter 23 of
15 the laws of 2020, is amended to read as follows:

16 § 29-a. Suspension of other laws. 1. Subject to the state constitu-
17 tion, the federal constitution and federal statutes and regulations, the
18 governor may by executive order temporarily suspend any statute, local
19 law, ordinance, or orders, rules or regulations, or parts thereof, of
20 any agency during a state disaster emergency, if compliance with such
21 provisions would prevent, hinder, or delay action necessary to cope with
22 the disaster [or if necessary to assist or aid in coping with such
23 disaster. The governor, by executive order, may issue any directive
24 during a state disaster emergency declared in the following instances:
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26 mudslide, wind, storm, wave action, volcanic activity, epidemic, disease
27 outbreak, air contamination, terrorism, cyber event, blight, drought,
28 infestation, explosion, radiological accident, nuclear, chemical,
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30 failure or bridge collapse. Any such directive must be necessary to cope
31 with the disaster and may provide for procedures reasonably necessary to
32 enforce such directive].

33 2. Suspensions pursuant to subdivision one of this section shall be
34 subject to the following standards and limits[, which shall apply to any
35 directive where specifically indicated]:

36 a. no suspension [or directive] shall be made for a period in excess
37 of thirty days, provided, however, that upon reconsideration of all of

1 the relevant facts and circumstances, the governor may extend the
2 suspension for additional periods not to exceed thirty days each;

3 b. no suspension [or directive] shall be made which [is not in the
4 interest of] does not safeguard the health [or] and welfare of the
5 public and which is not reasonably necessary to aid the disaster effort;

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

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

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

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

20 3. Such suspensions [or directives] shall be effective from the time
21 and in the manner prescribed in such orders and shall be published as
22 soon as practicable in the state bulletin.

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

25 § 4. This act shall take effect immediately; provided however, that
26 the amendments to paragraph a of subdivision 2 of section 20 of the
27 executive law made by section two of this act and the amendment to
28 section 29-a of the executive law made by section three of this act
29 shall not affect the expiration of such paragraph and such section and
30 shall be deemed to expire therewith.