

Article 3A.

Emergency War Powers of Governor.

**§ 147-33.1. Short title.**

This Article may be cited as the "North Carolina Emergency War Powers Act." (1943, c. 706, s. 1; 1959, c. 337, s. 6.)

**§ 147-33.2. Emergency war powers of the Governor.**

Upon the Governor's own initiative, or on the request or recommendation of the President of the United States, the United States Army, Navy, or any other branch of the Armed Forces of the United States, the federal Director of Civilian Defense, or any other federal officer, department or agency having duties and responsibilities related to the prosecution of the war or the health, welfare, safety and protection of the civilian population, whenever in the Governor's judgment any such action is in the public interest and is necessary for the protection of the lives or property of the people of the State, or for the defense and security of the State or nation, or for the proper conduct of the war and the successful prosecution thereof, the Governor may, with the approval of the Council of State, at any time and from time to time during the existing state of war:

- (1) Formulate and execute plans for:
  - a. The inventory, mobilization, conservation, distribution or use of food, fuel, clothing and other necessities of life and health, and of land, labor, materials, industries, facilities and other resources of the State necessary or useful in the prosecution of the war;
  - b. Organization and coordination of civilian defense in the State in reasonable conformity with the program of civilian defense as promulgated from time to time by the Office of Civilian Defense of the federal government; and, further, to effectuate such plans for civilian defense in such manner as to promote and assure the security, protection and mobilization of the civilian population of the State for the duration of the war and in the interest of State and national defense.
- (2) Order and carry out blackouts, radio silences, evacuations and all other precautionary measures against air raids or other forms of enemy action, and suppress or otherwise control any activity which may aid or assist the enemy.
- (3) Mobilize, coordinate and direct the activities of the police, fire fighting, health, street and highway repair, public utility, medical and welfare forces and services of the State, of the political subdivisions of the State, and of private agencies and corporations, and formulate and execute plans for the interchange and use of such forces and services for the mutual aid of the people of the State in cases of air raid, sabotage or other enemy action, fire, flood, famine, violence, riot, insurrection, or other catastrophe or emergency.
- (4) Prohibit, restrict, or otherwise regulate and control the flow of vehicular and pedestrian traffic, and congregation of persons in public places or buildings, lights and noises of all kinds and the maintenance, extension and operation of public utility and transportation services and facilities.

- (5) Accept, or authorize any officer or department of the State to accept, from the federal government or any federal agency or instrumentality, or from any other source, grants of funds and grants or loans of equipment, materials, supplies or other property for war or defense purposes, subject to the terms and conditions appertaining to such grants and loans.
- (6) Authorize any department or agency of the State to lease or lend to the United States Army, Navy, or any other branch of the Armed Forces of the United States, any real or personal property of the State upon such terms and conditions as the Governor may impose, or, on behalf of the State, to make a contract directly therefor.
- (7) Authorize the temporary transfer of personnel of the State for employment by the United States Army, Navy, or any other branch of the Armed Forces of the United States and fix the terms and conditions of such transfers.
- (8) At any time when the General Assembly is not in session, suspend, or modify, in whole or in part, generally or in its application to certain classes of persons, firms, corporations or circumstances, any law, rule or regulation with reference to the subjects hereinafter enumerated, when the Governor shall find and proclaim after such study, investigation or hearings as the Governor may direct, make or conduct, that the operation, enforcement or application of such law, or any part thereof, materially hinders, impedes, delays or interferes with the proper conduct of the war; said subjects being as follows:
  - a. The use of the roads, streets, and highways of the State, with particular reference to speed limits, weights and sizes of motor vehicles, regulations of automobile lights and signals, transportation of munitions or explosives and parking or assembling of automobiles on highways or any other public place within the State; provided that any changes in the laws referred to in this subdivision shall be first approved by the Board of Transportation and the Commissioner of Motor Vehicles of the State;
  - b. Public health, insofar as suspension or modification of the laws in reference thereto may be stipulated by the United States Public Health Service or other authoritative agency of the United States government as being essential in the interest of national safety and in the successful prosecution of the war effort; provided that such suspension or modification of public health laws shall first be submitted to and approved by the Commission for Public Health;
  - c. Labor and industry; provided, however, that any suspension or modification of laws regulating labor and industry shall be only such as are certified by the Commissioner of Labor of the State as being necessary in the interest of national safety and in the furtherance of the war program; and provided further that any such changes as may result in an increase in the hours of employment over and above the limits of the existing statutory provisions shall carry provision for adequate additional compensation; and provided, further, that no changes in such laws or regulations shall be made as affecting existing contracts between labor and management in this State except with the approval of the contracting parties;

- d. Whenever it should be certified by the Adjutant General of the State that emergency conditions require such procedure, the Governor, with the approval of the Council of State, shall have the power to call up and mobilize the State militia; to provide transportation and facilities for mobilization and full utilization of the State militia, in such emergency; and to allocate from the Contingency and Emergency Fund such amounts as may be necessary for such purposes during the period of such emergency;
  - e. Manufacture, sale, transportation, possession and use of explosives or fireworks, or articles in simulation thereof, and the sale, use and handling of firearms;
- (9) Cooperate with agencies established by or pursuant to the laws of the United States and the several states for civilian protection and the promotion of the war effort, and coordinate and direct the work of the offices and agencies of the State having duties and responsibilities directly connected with the war effort and the protection of the civilian population.
  - (10) Aid in the administration and enforcement in this State of any rationing, freezing, price-fixing or similar order or regulation duly promulgated by any federal officer or agency under or pursuant to the authority of any act of Congress or of any order or proclamation of the President of the United States, by making temporarily available personnel and facilities of the State to assist in the administration thereof and/or by adopting and promulgating in this State an order or regulation substantially embodying the provisions of such federal order or regulation, filing the same in the office of the Secretary of State, prescribing the penalties for the violation thereof, and specifying the State and local officers and agencies to be charged with the enforcement thereof.
  - (11) Formulate and execute plans and adopt rules for:
    - a. The organization, recruiting, training, maintenance and operation of aircraft warning services, observation and listening posts, information and control centers and such other services and facilities as may be necessary for the prompt and accurate reception and transmission of air-raid warnings and signals;
    - b. The organization, recruiting, training, equipment, identification, conduct, powers, duties, rights, privileges and immunities of air-raid wardens, auxiliary police, auxiliary firemen and of the members of all other auxiliary defense and civilian protection forces and agencies.
  - (12) Adopt, promulgate, publicize and enforce such orders, rules and regulations as may be necessary for the proper and effective exercise of the powers granted by this Article, and amend or rescind the same.
  - (13) Hold and conduct hearings, administer oaths and take testimony, issue subpoenas to compel the attendance of witnesses and the production of relevant books, papers, records or documents, in connection with any investigation made by the Governor under the authority of this Article. (1943, c. 706, s. 2; 1959, c. 337, s. 6; 1973, c. 476, s. 128; c. 507, s. 5; 1999-456, s. 33(f); 2007-182, s. 2; 2011-183, s. 107.)

**§ 147-33.3. Orders, rules and regulations.**

All orders, rules and regulations promulgated by the Governor pursuant to this Article shall have the full force and effect of law from and after the date of the filing of a duly authenticated copy thereof in the office of the Secretary of State. All laws, ordinances, rules and regulations, insofar as they are inconsistent with the provisions of this Article or of any rule, order or regulation made pursuant to this Article, shall be suspended during the period of time and to the extent that such conflict exists. A violation of any such order, rule or regulation, unless otherwise provided therein, shall be deemed a Class 1 misdemeanor. (1943, c. 706, s. 3; 1959, c. 337, s. 6; 1993, c. 539, s. 1054; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 147-33.4. Immunity.**

Neither the State nor any political subdivision thereof, nor the agents or representatives of the State or any political subdivision thereof, under any circumstances, nor any individual, firm, partnership, corporation or other entity, or any agent thereof, in good faith complying with or attempting to comply with any order, rule or regulation made pursuant to this Article, shall be liable for the death or any injury to persons or for any damage to property as the result of any air raid, invasion, act of sabotage, or other form of enemy action, or of any action taken under this Article or such order, rule or regulation. This section shall not be construed to impair or affect the right of any person to receive any benefits or compensation to which he may otherwise be entitled under Workers' Compensation Law, any pension law, or any other law, or any act of Congress, or any contract of insurance or indemnification. (1943, c. 706, s. 4; 1959, c. 337, s. 6; 1991, c. 636, s. 3.)

**§ 147-33.5. Federal action controlling.**

All action taken under this Article and all orders, rules and regulations made pursuant thereto in any field or with respect to any subject matter over which the United States Army or Navy or any other department or agency of the United States government has duly taken jurisdiction shall be taken or made with due consideration to the orders, rules, regulations, actions, recommendations and requests of such department or agency and shall be consistent therewith. Blackouts, radio silences and evacuations shall be carried out only in such areas, at such times, and for such periods as shall be designated by air-raid warnings or orders with respect thereto issued by the United States Army, or its duly designated agency, and only under such conditions and in such manner as shall be consistent with such warning or order, and practice blackouts shall be held only when and as authorized by the United States Army or its duly designated agency. (1943, c. 706, s. 5; 1959, c. 337, s. 6; 2011-183, s. 127(b).)

**§ 147-33.6. Construction of Article.**

This Article shall be construed liberally to effectuate its purposes. (1943, c. 706, s. 6; 1959, c. 337, s. 6.)

**§§ 147-33.7 through 147-33.11. Reserved for future codification purposes.**