

House Engrossed Senate Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

CHAPTER 101

**SENATE BILL 1258**

AN ACT

AMENDING SECTION 26-303, ARIZONA REVISED STATUTES; RELATING TO STATE EMERGENCIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-303, Arizona Revised Statutes, is amended to  
3 read:

4 26-303. Emergency powers of governor; termination;  
5 authorization for adjutant general; limitation

6 A. During a state of war emergency, the governor may:

7 1. Suspend the provisions of any statute prescribing the procedure for  
8 conduct of state business, or the orders or rules of any state agency, if the  
9 governor determines and declares that strict compliance with the provisions  
10 of any such statute, order or rule would in any way prevent, hinder or delay  
11 mitigation of the effects of the emergency.

12 2. Commandeer and utilize any property, EXCEPT FOR FIREARMS OR  
13 AMMUNITION OR FIREARMS OR AMMUNITION COMPONENTS or personnel deemed necessary  
14 in carrying out the responsibilities vested in the office of the governor by  
15 this chapter as chief executive of the state and thereafter the state shall  
16 pay reasonable compensation therefor as follows:

17 (a) If property is taken for temporary use, the governor, within ten  
18 days after the taking, shall determine the amount of compensation to be paid  
19 therefor. If the property is returned in a damaged condition, the governor  
20 shall, within ten days after its return, SHALL determine the amount of  
21 compensation to be paid for such damage.

22 (b) If the governor deems it necessary for the state to take title to  
23 property under this section, the governor shall then cause the owner of the  
24 property to be notified thereof in writing by registered mail, postage  
25 prepaid, and then cause a copy of the notice to be filed with the secretary  
26 of state.

27 (c) If the owner refuses to accept the amount of compensation fixed by  
28 the governor for the property referred to in subdivisions (a) and (b) ~~of this~~  
29 ~~paragraph~~, the amount of compensation shall be determined by appropriate  
30 proceedings in the superior court in the county where the property was  
31 originally taken.

32 B. During a state of war emergency, the governor shall have complete  
33 authority over all agencies of the state government and shall exercise all  
34 police power vested in this state by the constitution and laws of this state  
35 in order to effectuate the purposes of this chapter.

36 C. The powers granted the governor by this chapter with respect to a  
37 state of war emergency shall terminate if the legislature is not in session  
38 and the governor ~~has not~~, within twenty-four hours after the beginning of  
39 such state of war emergency, HAS NOT issued a call for an immediate special  
40 session of the legislature for the purpose of legislating on subjects  
41 relating to such state of war emergency.

42 D. The governor may proclaim a state of emergency which shall take  
43 effect immediately in an area affected or likely to be affected if the  
44 governor finds that circumstances described in section 26-301, paragraph 15  
45 exist.

1 E. During a state of emergency:

2 1. The governor shall have complete authority over all agencies of the  
3 state government and the right to exercise, within the area designated, all  
4 police power vested in the state by the constitution and laws of this state  
5 in order to effectuate the purposes of this chapter.

6 2. The governor may direct all agencies of the state government to  
7 utilize and employ state personnel, equipment and facilities for the  
8 performance of any and all activities designed to prevent or alleviate actual  
9 and threatened damage due to the emergency. The governor may direct such  
10 agencies to provide supplemental services and equipment to political  
11 subdivisions to restore any services in order to provide for the health and  
12 safety of the citizens of the affected area.

13 F. The powers granted the governor by this chapter with respect to a  
14 state of emergency shall terminate when the state of emergency has been  
15 terminated by proclamation of the governor or by concurrent resolution of the  
16 legislature declaring it at an end.

17 G. No provision of this chapter may limit, modify or abridge the  
18 powers vested in the governor under the constitution or statutes of this  
19 state.

20 H. If authorized by the governor, the adjutant general has the powers  
21 prescribed in this subsection. If, in the judgment of the adjutant general,  
22 circumstances described in section 26-301, paragraph 15 exist, the adjutant  
23 general may:

24 1. Exercise those powers pursuant to statute and gubernatorial  
25 authorization following the proclamation of a state of emergency under  
26 subsection D of this section.

27 2. Incur obligations of twenty thousand dollars or less for each  
28 emergency or contingency payable pursuant to section 35-192 as though a state  
29 of emergency had been proclaimed under subsection D of this section.

30 I. The powers exercised by the adjutant general pursuant to subsection  
31 H of this section expire seventy-two hours after the adjutant general makes a  
32 determination under subsection H of this section.

33 J. PURSUANT TO THE SECOND AMENDMENT OF THE UNITED STATES CONSTITUTION  
34 AND ARTICLE II, SECTION 26, CONSTITUTION OF ARIZONA, AND NOTWITHSTANDING ANY  
35 OTHER LAW, THE EMERGENCY POWERS OF THE GOVERNOR, THE ADJUTANT GENERAL OR ANY  
36 OTHER OFFICIAL OR PERSON SHALL NOT BE CONSTRUED TO ALLOW THE IMPOSITION OF  
37 ADDITIONAL RESTRICTIONS ON THE LAWFUL POSSESSION, TRANSFER, SALE,  
38 TRANSPORTATION, CARRYING, STORAGE, DISPLAY OR USE OF FIREARMS OR AMMUNITION  
39 OR FIREARMS OR AMMUNITION COMPONENTS.

40 K. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE  
41 GOVERNOR, THE ADJUTANT GENERAL OR OTHER OFFICIALS RESPONDING TO AN EMERGENCY  
42 FROM ORDERING THE REASONABLE MOVEMENT OF STORES OF AMMUNITION OUT OF THE WAY  
43 OF DANGEROUS CONDITIONS.

APPROVED BY THE GOVERNOR APRIL 18, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2007.

Passed the House April 2, 2007,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

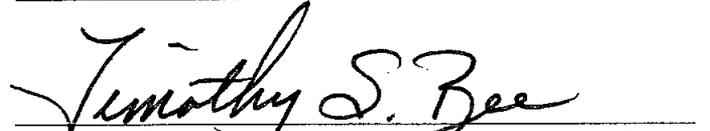
  
Speaker of the House

  
Chief Clerk of the House

Passed the Senate February 21, 2007,

by the following vote: 22 Ayes,

8 Nays, 0 Not Voting

  
President of the Senate

  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**S.B. 1258**

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 12, 20 07

by the following vote: 20 Ayes,

8 Nays, 2 Not Voting

Timothy S. Bee  
President of the Senate

Charmian Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

10th day of April, 20 07

at 11:41 o'clock a. M.

Wendee Upbarra  
Secretary to the Governor

Approved this 18 day of

April

at 2<sup>00</sup> o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 18 day of April, 20 07

at 3:33 o'clock P. M.

Janice K. Brewer  
Secretary of State