

First Extraordinary Session, 2005

SENATE BILL NO. 52

BY SENATORS MURRAY AND CHAISSON

ATTORNEY GENERAL. Provides for the attorney general to issue cease and desist orders during a state of emergency or disaster. (gov sig)

1 AN ACT

2 To enact R.S. 29:725.1, relative to the issuance of cease and desist orders by the attorney  
3 general during an emergency or disaster; to provide for the power of the attorney  
4 general to issue cease and desist orders during a state of emergency or disaster in the  
5 absence of the regular administration of justice; to provide for proper venue to  
6 request a hearing; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:725.1 is hereby enacted to read as follows:

9 **§725.1. Powers of the attorney general; cease and desist**

10 **A. During a time of emergency as declared by the governor, if the**  
11 **attorney general finds that the public safety or welfare requires emergency**  
12 **action in the absence of the normal administration of justice, he may issue an**  
13 **immediate order to a business entity or a person to immediately cease and desist**  
14 **from an act or a practice adverse to R.S. 51:1401 et seq. or R.S. 29:732 et seq.**

15 **B. The cease and desist order shall recite, with particularity, the facts**  
16 **underlying the reasons for the issuance of the order. The cease and desist order**  
17 **is effective immediately upon service of a copy of the order on the business**

1 entity or person. Service shall be made by the sheriff or a POST-certified  
 2 commissioned law enforcement officer employed by the attorney general or  
 3 through the long-arm statute to a foreign corporation. The cease and desist  
 4 order shall remain effective until either of the following events occur:

5 (1) The order is terminated by the attorney general,

6 (2) The order is lifted by the court order,

7 (3) The expiration of the state of emergency.

8 C. Any business entity or person aggrieved by a cease and desist order  
 9 may request a hearing if such request is made and filed in a judicial district  
 10 court of proper venue or the Nineteenth Judicial District Court in the parish of  
 11 East Baton Rouge within ten days after service of the order. In the event  
 12 neither district court is operational, the hearing request shall be made and filed  
 13 in an operating judicial district court located closest in geographic distance to  
 14 the Nineteenth Judicial District Court in the parish of East Baton Rouge. This  
 15 shall be the exclusive remedy.

16 Section 2. This Act shall become effective upon signature by the governor or, if not  
 17 signed by the governor, upon expiration of the time for bills to become law without signature  
 18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 19 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 20 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Tracy Sabina Sudduth.

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#### DIGEST

Present law provides for the declaration by the governor of a time of an emergency. Provides for the effectiveness of such declaration. Provides for the termination of such declaration. Provides for the power of the governor and other officials during such time.

Proposed law retains present law and adds a provision that authorizes the attorney general, during a declared time of emergency and pursuant to his finding that the public safety or welfare requires emergency action in the absence of the normal administration of justice, to issue an immediate cease and desist order to any person or business entity to require them to stop an act or a practice adverse to the public safety or welfare.

Requires the order recite the particular underlying facts. Provides that the order is effective upon service and remains so until either terminated by the attorney general or lifted by a

court or until the period of declared emergency ends.

Provides that a person or business aggrieved by such an order may request a hearing by filing such request within ten days of service of the order in the 19<sup>th</sup> JDC or the district court with jurisdiction where the person resides or the business is located.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 29:725.1)