

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 to a person to immediately cease and**
14 **desist from an act or a practice adverse to R.S. 51:1401 et seq. or R.S. 29:732 et**
15 **seq.**

16 **B.(1) The cease and desist order shall recite, with particularity, the facts**
17 **underlying the reasons for the issuance of the order. The cease and desist order**

1 is effective immediately upon service of a copy of the order on the business
2 entity or person. Service shall be made by the sheriff or a POST-certified
3 commissioned law enforcement officer employed by the attorney general or
4 through the long-arm statute to a foreign corporation.

5 (2) The cease and desist order shall remain effective until either of the
6 following events occur:

7 (a) The order is terminated by the attorney general.

8 (b) The order is lifted by the court order.

9 (c) The expiration of the state of emergency.

10 (d) The expiration of three business days after the court of proper venue
11 reopens, provided the attorney general does not take additional legal action in
12 the court of proper venue.

13 C. Any business entity or person aggrieved by a cease and desist order
14 may request a hearing if such request is made and filed in a judicial district
15 court of proper venue or the Nineteenth Judicial District Court in the parish of
16 East Baton Rouge within ten days after service of the order. In the event
17 neither district court is operational, the hearing request shall be made and filed
18 in an operating judicial district court located closest in geographic distance to
19 the Nineteenth Judicial District Court in the parish of East Baton Rouge. The
20 attorney general shall request the matter be set with priority. This shall be the
21 exclusive remedy.

22 D. Whoever violates a cease and desist order shall, after a hearing in an
23 appropriate court under this Section, be assessed a civil penalty not to exceed
24 five hundred dollars per offense. Each violation of a cease and desist order shall
25 be deemed a separate offense.

26 Section 2. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
29 vetoed by the governor and subsequently approved by the legislature, this Act shall become

1 effective on the day following such approval.

The original instrument was prepared by Tracy Sabina Sudduth. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

Murray (SB 52)

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; lifted by a court; until the period of declared emergency ends; or upon expiration of three days after the court of proper venue reopens provided the attorney general does not take additional action in the court of proper venue.

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 19th JDC or the district court with jurisdiction where the person resides or the business is located.

Provides that violators are subject to assessment of civil penalties not to exceed \$500 per offense with each violation of a cease and desist order constitution a separate offense.

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

(Adds R.S. 29:725.1)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Adds provision for termination of cease and desist orders upon expiration of three days after the court of proper venue reopens.
2. Adds civil penalties for \$500. for each violation of a cease and desist order.