

HOUSE BILL NO. 2293

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate LaRock)

A BILL to amend and reenact §§ 32.1-13, 32.1-20, and 32.1-42 of the Code of Virginia, relating to Commissioner of Health; emergency orders and regulations; limitations; civil penalty.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-13, 32.1-20, and 32.1-42, of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-13. Emergency orders and regulations; civil penalty.**

A. The Board may make separate orders and regulations to meet any emergency, not provided for by general regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health.

B. Notwithstanding any other provision of law, the Board shall not make any order or regulation pursuant to this section unless, on the basis of the evidence available to the Board, (i) such order or regulation is necessary to suppress a nuisance dangerous to the public health or a communicable, contagious, or infectious disease or other danger to the public life and health; (ii) no alternatives to the proposed order or regulation that are reasonable in light of the impact on quality of life and economic well-being exist; and (iii) the provisions of such order or regulation are narrowly tailored to address the nuisance dangerous to the public health or a communicable, contagious, or infectious disease or other danger to the public life and health. Evidence considered by the Board in making such order or regulation shall be made part of the record of such decision. Any order or regulation adopted pursuant to this section shall comply with the requirements of § 57-2.02.

C. An order or regulation made by the Board pursuant to subsection B shall be valid for a period not to exceed 15 days. The Board may extend an order or regulation made pursuant to subsection B one

27 time, for a period not to exceed 15 days, if (i) the Board provides notice of its intent to extend the order  
28 or regulation and holds at least one public hearing, which shall include opportunity for public comment,  
29 prior to such extension and (ii) on the basis of the evidence available to the Board, (a) such order or  
30 regulation is necessary to suppress a nuisance dangerous to the public health or a communicable,  
31 contagious, or infectious disease or other danger to the public life and health; (b) no alternatives to the  
32 proposed order or regulation that are reasonable in light of the impact on quality of life and economic  
33 well-being exist; and (c) the provisions of such order or regulation are narrowly tailored to address the  
34 nuisance dangerous to the public health or a communicable, contagious, or infectious disease or other  
35 danger to the public life and health. Evidence considered by the Board in extending such order or  
36 regulation shall be made part of the record of such decision.

37 D. Any order that (i) limits the number of individuals who may gather together in person, in public  
38 or private, or (ii) categorizes individuals on the basis of their relationship to or association with such  
39 individuals and limits the categories of individuals with whom an individual who is not known or  
40 reasonably suspected to have been exposed to or infected with a communicable disease of public health  
41 threat may associate shall be deemed to negatively impact the quality of life and economic well-being of  
42 residents of the Commonwealth.

43 E. Any person who violates an order or regulation made pursuant to this section is subject to a civil  
44 penalty of no more than \$100 per violation. Such civil penalty shall be collected by the Commissioner and  
45 is payable to the Literary Fund. In no case shall any person be assessed a total of more than \$1,000 in  
46 penalties for violations of the same order or regulation.

47 F. Any emergency order or regulation made by the Board under this section shall not be exempt  
48 from the provisions of § 32.1-24 and shall not be exempt from judicial review under § 2.2-4026. Nothing  
49 in this section limits the applicability of any otherwise applicable provision of the Administrative Process  
50 Act (§ 2.2-4000 et. seq.).

51 **§ 32.1-20. Vested with authority of Board.**

52 A. The Commissioner shall be vested with all the authority of the Board when it is not in session,  
53 subject to such rules and regulations as may be prescribed by the Board.

54 B. Any order or regulation made by the Commissioner pursuant to this section shall be subject to  
55 the requirements of § 32.1-13.

56 **§ 32.1-42. Emergency rules and regulations.**

57 The Board of Health may promulgate regulations and orders to meet any emergency or to prevent  
58 a potential emergency caused by a disease dangerous to public health, including, but not limited to,  
59 procedures specifically responding to any disease listed pursuant to § 32.1-35 that is determined to be  
60 caused by an agent or substance used as a weapon or any communicable disease of public health threat  
61 that is involved in an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et  
62 seq.) of this chapter. Any regulation or order adopted by the Board pursuant to this section shall be subject  
63 to the provisions of § 32.1-13.

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