



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

Andy Beshear
GOVERNOR

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VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 1 OF THE
2021 REGULAR SESSION

I, Andy Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky Constitution, do hereby veto the following:

House Bill 1 of the 2021 Regular Session of the General Assembly in its entirety.

I am vetoing House Bill 1 because it is unconstitutional, impractical, and would severely hamper the serious and significant steps needed to protect lives and keep our workforce healthy and thereby our economy open.

House Bill 1 attempts to remove the authority from the Executive Branch to respond to a worldwide health pandemic at a time when the state is experiencing some of its highest cases, deaths, and hospitalizations. A mutated strain of the virus is spreading more aggressively than at any time in the pandemic. Areas of the country that have not acted quickly and with flexibility are seeing devastating results, with Los Angeles County out of hospital beds, unable to make ambulance runs, and now storing bodies in as many as 88 freezer trucks.

It is at this time that House Bill 1 attempts to remove authority from the Governor and instead write "guidelines issued by the Center for Disease Control and Prevention" into law as enforceable regulation. Attached to this statement is a letter from Dr. Redfield, the Director of the CDC. In no uncertain terms, he states CDC Guidelines are not "meant to be prescriptive or interpreted as standards that can be regulated." Instead, Dr. Redfield says they are merely guidance meant to be considered for state or local emergency orders.

Not only are CDC Guidelines not written for or intended to be written into law, they can be contradictory, vague, and in some instances more restrictive than current state rules. For a single business, three or more sets of guidance may be applicable. One set of guidance could be read to prohibit all "group events, gatherings, or meetings where social distancing ... between people who do not live in the same household cannot be maintained" Another provision appears to require businesses to implement paid leave. A third may allow restaurants to be open, but to prohibit any customers.

House Bill 1 is further unconstitutional as the Kentucky Constitution tasks the Governor with responding to an emergency. By vesting the “supreme executive power” in the Governor and making him the Commander in Chief, while expressly limiting the General Assembly annual part-time meetings, our Constitution “tilts toward emergency powers in the executive branch.” Beshear v. Acree, --- S.W.3d ---, No. 2020-SC-0313-OA, 2020 WL 6736090, at *1 (Ky. Nov. 12, 2020).

Finally, if responding to an emergency is – in any part – legislative, House Bill 1 is unconstitutional for vagueness, and for attempting to delegate rule making authority to chambers of commerce and trade organizations.

This the 19th day of January, 2021.



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VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 2 OF THE
2021 REGULAR SESSION

I, Andy Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky Constitution, do hereby veto the following:

House Bill 2 of the 2021 Regular Session of the General Assembly in its entirety.

I am vetoing House Bill 2 because the Office of the Attorney General does not have the expertise or the necessary structure to directly regulate medical procedures or health care providers. The regulation of legal medical procedures is currently being performed by the Cabinet for Health and Family Services, which has extensive experience across all fields of the medical profession. Given the divergent views on this legal medical procedure, it is also critical to have an impartial regulator.

This the 19th day of January, 2021.



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VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING HOUSE BILL 5 OF THE
2021 REGULAR SESSION

I, Andy Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky Constitution, do hereby veto the following:

House Bill 5 of the 2021 Regular Session of the General Assembly in its entirety.

I am vetoing House Bill 5 because it would remove a necessary tool for the Governor to "faithfully execute the law" under Section 81 of the Kentucky Constitution. The inability of a Governor to temporarily alter his Executive Branch Cabinets and Offices would prevent him from executing new laws passed by the General Assembly or the United States Congress that require new or different governmental structures to carry out. It would also disqualify the Commonwealth from federal grants that may require a new office or commission. Moreover, the reorganization of the Executive Branch Cabinet is an executive function under the separation of powers provisions under Sections 27 and 28 of the Kentucky Constitution.

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VETO MESSAGE FROM THE
GOVERNOR OF THE COMMONWEALTH OF KENTUCKY
REGARDING SENATE BILL 1 OF THE
2021 REGULAR SESSION

I, Andy Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky Constitution, do hereby veto the following:

Senate Bill 1 of the 2021 Regular Session of the General Assembly in its entirety.

I am vetoing Senate Bill 1 because it unconstitutionally interferes with the Governor's power and responsibility to confront emergencies. It would severely limit Kentucky's ability to respond to emergencies like this pandemic, putting lives at risk.

Senate Bill 1 attempts to limit all emergency orders that restrict certain in-person activities to thirty days, unless the General Assembly approves the extension. This limitation would prevent state government from responding to future disease outbreaks and many other emergencies unless the General Assembly is called to special session and passes approving legislation within thirty days.

That is not workable. Emergencies call for flexibility, which is why the power to respond to emergencies rests with the executive branch. It is also not constitutional. The Governor is charged with responding to emergencies under Kentucky's Constitution. By attempting to limit the duration of emergencies, the General Assembly is intruding on the Governor's executive power in violation of the Constitution.

Senate Bill 1 also violates the Constitution by allowing the General Assembly to exercise power outside of session and forcing the Governor to call it back into session in the event of an emergency. Our General Assembly is a part-time, citizen legislature. When it is out of session, it ceases to exist. The Framers of our Constitution wisely imposed these limits to check legislative abuses. This bill attempts to circumvent those limits by forcing the Governor to call the General Assembly into session in order to respond to emergencies. The General Assembly cannot try to accomplish by statute that which the Constitution prohibits.

I am also vetoing Senate Bill 1 because it limits all other emergency orders to thirty days unless a local judge-executive requests an extension. As this pandemic has shown, and as the Kentucky Supreme Court has recognized, a coordinated statewide response to certain emergencies is

essential. Natural emergencies do not respect county lines. Moreover, this provision is unconstitutional. The Governor exercises the supreme executive power of the Commonwealth. That power cannot be subject to the approval of local officials.

Finally, Senate Bill 1 is unconstitutional because it provides an inferior executive officer – the Attorney General – the power to approve or disapprove the Governor’s decision to suspend laws. The supreme executive power rests in the Governor. The Attorney General may advise the Governor, but he cannot override the Governor’s decision to suspend laws if needed in response to an emergency.

This the 19th day of January, 2021.



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REGARDING SENATE BILL 2 OF THE
2021 REGULAR SESSION

I, Andy Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under section 88 of the Kentucky Constitution, do hereby veto the following:

Senate Bill 2 of the 2021 Regular Session of the General Assembly in its entirety.

I am vetoing Senate Bill 2 because it is unconstitutional. Senate Bill 2 attempts to authorize binding decisions by interim legislative committees by removing the word “nonbinding” from the language of the current provision of KRS Chapter 13A related to the interim Administrative Regulation Review Subcommittee. Senate Bill 2 is further unconstitutional because it attempts to allow interim legislative committees to amend regulations with the force of law. Senate Bill 2 is also unconstitutional in attempting to limit the authority of the Cabinet for Health and Family Services to promulgate any administrative regulations under KRS Chapter 214 to address infectious and contagious diseases in the Commonwealth by making any such administrative regulations effective for only 30 days as to certain entities. Senate Bill 2 violates the limitations placed on the General Assembly under the Kentucky Constitution and Legislative Research Commission, By and Through Joseph W. Prather v. Brown, 664 S.W.2d 907 (Ky. 1984), and violates the separation of powers under Sections 27 and 28 of the Kentucky Constitution and Brown v. Barkley, 628 S.W.2d 616 (Ky. 1982).

This the 19th day of January, 2021.

Andy Beshear
Governor