

2023 Kansas Statutes

65-786. Issuance of emergency cease and desist orders by secretary; notice and hearing; declaration of imminent health hazard. (a) If the secretary determines after notice and opportunity for a hearing that any person has engaged in or is engaging in any act or practice constituting a violation of any provision of this act or any rules and regulations or order issued thereunder, the secretary may require that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the secretary will carry out the purposes of the violated or potentially violated provision of this act or rules and regulations or order issued thereunder. Any such hearing shall be held by the secretary or a presiding officer from the office of administrative hearings.

(b) If the secretary makes written findings of fact that there is a situation involving an immediate danger to the public health, safety or welfare or that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the secretary may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order, the secretary shall promptly notify the person subject to the order that:

- (1) It has been entered;
- (2) the reasons therefor; and
- (3) that upon written request from the person subject to the order within 15 days after service of the order the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any such hearing shall be held by the secretary or presiding officer from the office of administrative hearings. If no hearing is requested and none is ordered by the secretary, the order will remain in effect until it is modified or vacated by the secretary. If a hearing is requested or ordered the secretary, after giving notice of and opportunity for hearings to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order.

(c) When necessary to protect the public health, an imminent health hazard may be declared by the secretary at any point in a chain of events that ultimately may result in harm or danger to the public health. The occurrence of the final anticipated injury or other disease-related condition shall not be a prerequisite for the establishment of the existence of an imminent health hazard and the use of any authority granted pursuant to this act, including any action taken pursuant to subsection (a) or (b) or K.S.A. 65-780a or 65-785, and amendments thereto.

History: L. 2001, ch. 32, § 16; L. 2004, ch. 145, § 23; L. 2022, ch. 45, § 7; July 1.