
HOUSE BILL 2042

State of Washington

65th Legislature

2017 Regular Session

By Representatives J. Walsh, Blake, and Kretz

1 AN ACT Relating to restoring certain gubernatorial powers to
2 waive statutory obligations or limitations in order to preserve and
3 maintain life, health, property, or the public peace during a state
4 of emergency; amending RCW 43.06.220; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
7 governor has broad authority to proclaim a state of emergency in any
8 area of the state under RCW 43.06.010(12), and exercise emergency
9 powers during the emergency. These emergency powers have historically
10 included the ability under RCW 43.06.220(1)(i) to temporarily waive
11 or suspend statutory obligations by prohibiting compliance with
12 statutory provisions during a proclaimed state of emergency when the
13 governor reasonably believed it would help preserve and maintain
14 life, health, property, or the public peace.

15 The legislature further finds that, in response to issues arising
16 from flooding events in 2007, RCW 43.06.220(2) was amended by chapter
17 181, Laws of 2008, to explicitly authorize the governor to
18 temporarily waive or suspend a set of specifically identified
19 statutes. This amendment has become problematic for subsequent
20 emergency response activities because it has inadvertently narrowed
21 the governor's ability to waive or suspend statutes under RCW

1 43.06.220(1)(i) by issuing orders temporarily prohibiting compliance
2 with statutes not expressly identified in RCW 43.06.220(2).

3 (2) The legislature intends to maintain the specific waiver
4 provisions enacted in 2008 and restore the governor's preexisting
5 ability to immediately respond during a proclaimed state of emergency
6 by temporarily waiving or suspending other statutory obligations or
7 limitations that the governor reasonably believes should be waived or
8 suspended to help preserve and maintain life, health, property, or
9 the public peace.

10 **Sec. 2.** RCW 43.06.220 and 2008 c 181 s 1 are each amended to
11 read as follows:

12 (1) The governor after proclaiming a state of emergency and prior
13 to terminating such, may, in the area described by the proclamation
14 issue an order prohibiting:

15 (a) Any person being on the public streets, or in the public
16 parks, or at any other public place during the hours declared by the
17 governor to be a period of curfew;

18 (b) Any number of persons, as designated by the governor, from
19 assembling or gathering on the public streets, parks, or other open
20 areas of this state, either public or private;

21 (c) The manufacture, transfer, use, possession or transportation
22 of a molotov cocktail or any other device, instrument or object
23 designed to explode or produce uncontained combustion;

24 (d) The transporting, possessing or using of gasoline, kerosene,
25 or combustible, flammable, or explosive liquids or materials in a
26 glass or uncapped container of any kind except in connection with the
27 normal operation of motor vehicles, normal home use or legitimate
28 commercial use;

29 (e) The possession of firearms or any other deadly weapon by a
30 person (other than a law enforcement officer) in a place other than
31 that person's place of residence or business;

32 (f) The sale, purchase or dispensing of alcoholic beverages;

33 (g) The sale, purchase or dispensing of other commodities or
34 goods, as he or she reasonably believes should be prohibited to help
35 preserve and maintain life, health, property or the public peace;

36 (h) The use of certain streets, highways or public ways by the
37 public; and

1 (i) Such other activities as he or she reasonably believes should
2 be prohibited to help preserve and maintain life, health, property or
3 the public peace.

4 (2) The governor after proclaiming a state of emergency and prior
5 to terminating such may, in the area described by the proclamation,
6 issue an order or orders concerning waiver or suspension of statutory
7 obligations or limitations in any or all of the following areas as
8 further specified and limited by chapter 181, Laws of 2008:

9 (a) Liability for participation in interlocal agreements;

10 (b) Inspection fees owed to the department of labor and
11 industries;

12 (c) Application of the family emergency assistance program;

13 (d) Regulations, tariffs, and notice requirements under the
14 jurisdiction of the utilities and transportation commission;

15 (e) Application of tax due dates and penalties relating to
16 collection of taxes; (~~and~~)

17 (f) Permits for industrial, business, or medical uses of alcohol;
18 and

19 (g) Such other statutory and regulatory obligations or
20 limitations as he or she reasonably believes should be waived or
21 suspended to help preserve and maintain life, health, property, or
22 the public peace, unless (i) authority to waive or suspend a specific
23 statutory or regulatory obligation or limitation has been expressly
24 granted to another statewide elected official, or (ii) the waiver or
25 suspension would conflict with federal requirements that are a
26 prescribed condition to the allocation of federal funds to the state.
27 The governor shall give as much notice as practical to legislative
28 leadership and impacted local governments when issuing orders under
29 this subsection (g).

30 (3) In imposing the restrictions provided for by RCW 43.06.010,
31 and 43.06.200 through 43.06.270, the governor may impose them for
32 such times, upon such conditions, with such exceptions and in such
33 areas of this state he or she from time to time deems necessary.

34 (4) Any person willfully violating any provision of an order
35 issued by the governor under this section is guilty of a gross
36 misdemeanor.

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