H-1517.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2042**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives J. Walsh, Blake, and Kretz

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

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

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

The legislature further finds that, in response to issues arising from flooding events in 2007, RCW 43.06.220(2) was amended by chapter 181, Laws of 2008, to explicitly authorize the governor to temporarily waive or suspend a set of specifically identified statutes. This amendment has become problematic for subsequent emergency response activities because it has inadvertently narrowed the governor's ability to waive or suspend statutes under RCW 43.06.220(1)(i) by issuing orders temporarily prohibiting compliance with statutes not expressly identified in RCW 43.06.220(2).

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Liability for participation in interlocal agreements;

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

(c) Application of the family emergency assistance program;

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

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

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

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

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

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

**--- END ---**