

SB 5909 - H AMD TO SGOV COMM AMD (H-2848.1/22) **1331**
By Representative Volz

WITHDRAWN 03/04/2022

1 Beginning on page 1, line 3, strike all material through "RCW."
2 on page 7, line 5 and insert the following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes that the
4 executive branch is well-equipped to confront emergencies and lead
5 responses. However, for long-lasting states of emergency when the
6 continuity of government has not been disrupted, the legislature
7 finds that each of the branches of government has a role to play.
8 Accordingly, this act is designed to ensure adequate legislative
9 involvement in long-lasting states of emergency.

10 **Sec. 2.** RCW 43.06.210 and 2013 c 21 s 1 are each amended to read
11 as follows:

12 (1) The proclamation of a state of emergency and other
13 proclamations or orders issued by the governor pursuant to RCW
14 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter
15 amended shall be in writing and shall be signed by the governor and
16 shall then be filed with the secretary of state. A proclamation of a
17 state of emergency is effective upon the governor's signature. The
18 governor shall give as much public notice as practical through the
19 news media of the issuance of proclamations or orders pursuant to RCW
20 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter
21 amended.

22 (2) The state of emergency shall cease to exist upon the earlier
23 of:

24 (a) The issuance of a proclamation of the governor declaring its
25 termination (~~(: PROVIDED, That the)~~). The governor must terminate said
26 state of emergency proclamation when order has been restored in the
27 area affected;

28 (b) The passage of a concurrent resolution by the legislature
29 declaring the termination of the state of emergency. If the
30 legislature is not in session, the state of emergency may be

1 terminated in writing by all of the four members of the leadership of
2 the senate and the house of representatives; or

3 (c) Sixty days after a proclamation of a state of emergency is
4 signed by the governor, unless extended by the legislature through
5 concurrent resolution. If the legislature is not in session, the
6 state of emergency may be extended in writing by all of the four
7 members of the leadership of the senate and the house of
8 representatives until the legislature can extend the state of
9 emergency by concurrent resolution. The governor or legislature may
10 also call a special session, consistent with the procedures outlined
11 in the Constitution, to vote on a concurrent resolution to extend a
12 state of emergency. No individual extension may exceed 60 days, but
13 the legislature may pass subsequent resolutions of extension and the
14 leadership of the senate and the house of representatives may issue
15 subsequent extensions in writing in accordance with this subsection
16 (2)(c).

17 (3) Following the termination of a state of emergency under
18 subsection (2) of this section, the governor may not declare a state
19 of emergency on the same or a substantially similar topic. The
20 legislature may reinstate a previously terminated state of emergency
21 by concurrent resolution or, if the legislature is not in session, in
22 writing by all of the four members of the leadership of the senate
23 and the house of representatives.

24 (4) For purposes of this section, "leadership of the senate and
25 the house of representatives" means the majority leader of the
26 largest caucus of the senate, minority leader of the second largest
27 caucus of the senate, speaker of the house of representatives, and
28 minority leader of the second largest caucus of the house of
29 representatives.

30 **Sec. 3.** RCW 43.06.220 and 2019 c 472 s 2 are each amended to
31 read as follows:

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

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

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

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

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

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

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

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

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

21 (2) The governor after proclaiming a state of emergency and prior
22 to terminating such may, in the area described by the proclamation,
23 issue an order or orders concerning waiver or suspension of statutory
24 obligations or limitations in the following areas:

25 (a) Liability for participation in interlocal agreements;

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

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

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

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

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

35 (g) Such other statutory and regulatory obligations or
36 limitations prescribing the procedures for conduct of state business,
37 or the orders, rules, or regulations of any state agency if strict
38 compliance with the provision of any statute, order, rule, or
39 regulation would in any way prevent, hinder, or delay necessary
40 action in coping with the emergency, unless (i) authority to waive or

1 suspend a specific statutory or regulatory obligation or limitation
2 has been expressly granted to another statewide elected official,
3 (ii) the waiver or suspension would conflict with federal
4 requirements that are a prescribed condition to the allocation of
5 federal funds to the state, or (iii) the waiver or suspension would
6 conflict with the rights, under the First Amendment, of freedom of
7 speech or of the people to peaceably assemble. The governor shall
8 give as much notice as practical to legislative leadership and
9 impacted local governments when issuing orders under this subsection
10 (2)(g).

11 (3) (~~In imposing the~~) Any restrictions imposed by the governor
12 as provided for by RCW 43.06.010(~~(r)~~) and 43.06.200 through
13 43.06.270(~~(r, the governor may impose them)~~) are in effect for such
14 times, upon such conditions, with such exceptions, and in such areas
15 of this state (~~he or she~~) that the governor from time to time deems
16 necessary, except that:

17 (a) The legislature may terminate any restriction through a
18 concurrent resolution; and

19 (b) If the legislature is not in session, a restriction may be
20 terminated in writing by all of the four members of the leadership of
21 the senate and the house of representatives.

22 (4) No order or orders (~~concerning waiver or suspension of~~
23 ~~statutory obligations or limitations under subsection (2) of~~) under
24 this section may continue for longer than thirty days unless extended
25 by the legislature through concurrent resolution. If the legislature
26 is not in session, (~~the waiver or suspension of statutory~~
27 ~~obligations or limitations~~) an order under this section may be
28 extended in writing by all of the four members of the leadership of
29 the senate and the house of representatives until the legislature can
30 extend the (~~waiver or suspension~~) order under this section by
31 concurrent resolution.

32 (5) For purposes of this section, "leadership of the senate and
33 the house of representatives" means the majority (~~and~~) leader of
34 the largest caucus of the senate, minority leader(~~s~~) of the second
35 largest caucus of the senate (~~and the~~), speaker of the house of
36 representatives, and (~~the~~) minority leader of the second largest
37 caucus of the house of representatives.

38 (~~(5)~~) (6) An order issued by the governor under this section
39 must be drafted in a format that complies with the following:

1 (a) An order that waives or suspends provisions of law must set
2 forth the entirety of the section or sections of law that are being
3 waived or suspended, clearly showing the provisions that are no
4 longer in effect; and

5 (b) A new order that extends or modifies previous orders on the
6 same topic must set forth, in full, the entirety of waivers or
7 suspensions that are or continue to be in effect as of the issuance
8 of the new order. If the new order modifies previous orders, the
9 nature and extent of the modification must also be clearly described
10 in the new order.

11 (7) Any person willfully violating any provision of an order
12 issued by the governor under this section is guilty of a ((gross
13 misdemeanor)) class 1 civil infraction and may receive a fine as
14 provided in RCW 7.80.120, to be imposed at the discretion of the
15 agency responsible for implementing the provision of the order that
16 has been violated, or by the governor if no agency is responsible for
17 implementation.

18 NEW SECTION. Sec. 4. This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of
20 the state government and its existing public institutions, and takes
21 effect immediately."

EFFECT: (1) Authorizes the Legislature to terminate a State of
Emergency (SOE) at any time, not just after 90 days and not just
during interim.

(2) Limits a SOE to 60 days duration, unless extended by the
Legislature.

(3) Limits Governor orders that prohibit certain actions during a
SOE to 30 days duration, unless extended by the Legislature.

(4) Modifies the penalty for willfully violating a Governor's
order from a gross misdemeanor to a civil infraction.

(5) Specifies that Governor orders related to a SOE must comply
with specific formatting requirements.

(6) Removes provisions that make permanent the Joint Legislative
Unanticipated Revenue Oversight Committee.

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