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**SENATE BILL 5094**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senator Fortunato

Prefiled 01/07/19.

1 AN ACT Relating to exempting the flag of the United States from  
2 regulations regarding signs, banners, or decorations along or near  
3 roadways; amending RCW 47.36.030 and 47.24.020; adding a new section  
4 to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; and  
5 adding a new section to chapter 36.01 RCW.

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

7 **Sec. 1.** RCW 47.36.030 and 2005 c 398 s 1 are each amended to  
8 read as follows:

9 (1) The secretary of transportation shall have the power and it  
10 shall be its duty to adopt and designate a uniform state standard for  
11 the manufacture, display, erection, and location of all signs,  
12 signals, signboards, guideposts, and other traffic devices erected or  
13 to be erected upon the state highways of the state of Washington for  
14 the purpose of furnishing information to persons traveling upon such  
15 state highways regarding traffic regulations, directions, distances,  
16 points of danger, and conditions requiring caution, and for the  
17 purpose of imposing restrictions upon persons operating vehicles  
18 thereon. Such signs shall conform as nearly as practicable to the  
19 manual of specifications for the manufacture, display, and erection  
20 of uniform traffic control devices for streets and highways and all  
21 amendments, corrections, and additions thereto.

1 (2) The department of transportation shall prepare plans and  
2 specifications of the uniform state standard of traffic devices so  
3 adopted and designated, showing the materials, colors, and designs  
4 thereof, and shall upon the issuance of any such plans and  
5 specifications or revisions thereof and upon request, furnish to the  
6 boards of county commissioners and the governing body of any  
7 incorporated city or town, a copy thereof. Signs, signals,  
8 signboards, guideposts, and other traffic devices erected on county  
9 roads shall conform in all respects to the specifications of color,  
10 design, and location approved by the secretary. Traffic devices  
11 hereafter erected within incorporated cities and towns shall conform  
12 to such uniform state standard of traffic devices so far as is  
13 practicable. The uniform system must allow local transit authority  
14 bus shelters located within the right-of-way of the state highway  
15 system to display and maintain commercial advertisements subject to  
16 applicable federal regulations, if any.

17 (3) (a) The uniform system adopted by the secretary under this  
18 section may allow signs, banners, or decorations over a highway that:

- 19 ~~((a))~~ (i) Are in unincorporated areas;
- 20 ~~((b))~~ (ii) Are at least twenty vertical feet above a highway;
- 21 and
- 22 ~~((c))~~ (iii) Do not interfere with or obstruct traffic flow or  
23 the view of any traffic control device.

24 (b) The department may not prohibit the placement of the flag of  
25 the United States along or near any state highway.

26 (i) For purposes of this subsection (3)(b), "flag of the United  
27 States" means the flag of the United States as defined in federal  
28 flag display law, 4 U.S.C. Sec. 1 et seq., that is made of fabric,  
29 cloth, or paper and that is displayed from a staff or flagpole.

30 (ii) Any flag of the United States placed along or near any state  
31 highway must still comply with (a)(ii) and (iii) of this subsection.

32 The department shall adopt rules regulating signs, banners, or  
33 decorations installed under this subsection (3).

34 NEW SECTION. Sec. 2. A new section is added to chapter 35.21  
35 RCW to read as follows:

36 Any ordinance adopted by a city or town relating to signs,  
37 banners, or decorations along or near a roadway does not apply to a  
38 flag of the United States as defined in RCW 47.36.030. Any flag of

1 the United States placed along or near any roadway must still comply  
2 with RCW 47.36.030(3)(a)(ii) and (iii).

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 35A.21  
4 RCW to read as follows:

5 Any ordinance adopted by a code city relating to signs, banners,  
6 or decorations along or near a roadway does not apply to a flag of  
7 the United States as defined in RCW 47.36.030. Any flag of the United  
8 States placed along or near any roadway must still comply with RCW  
9 47.36.030(3)(a)(ii) and (iii).

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.01  
11 RCW to read as follows:

12 Any ordinance adopted by a county relating to signs, banners, or  
13 decorations along or near a roadway does not apply to a flag of the  
14 United States as defined in RCW 47.36.030. Any flag of the United  
15 States placed along or near any roadway must still comply with RCW  
16 47.36.030(3)(a)(ii) and (iii).

17 **Sec. 5.** RCW 47.24.020 and 2018 c 100 s 1 are each amended to  
18 read as follows:

19 The jurisdiction, control, and duty of the state and city or town  
20 with respect to such streets is as follows:

21 (1) The department has no authority to change or establish any  
22 grade of any such street without approval of the governing body of  
23 such city or town, except with respect to limited access facilities  
24 established by the commission;

25 (2) The city or town shall exercise full responsibility for and  
26 control over any such street beyond the curbs and if no curb is  
27 installed, beyond that portion of the highway used for highway  
28 purposes. However, within incorporated cities and towns the title to  
29 a state limited access highway vests in the state, and,  
30 notwithstanding any other provision of this section, the department  
31 shall exercise full jurisdiction, responsibility, and control to and  
32 over such facility as provided in chapter 47.52 RCW;

33 (3) Except as provided in RCW 47.36.030, the department has  
34 authority to prohibit the suspension of signs, banners, or  
35 decorations above the portion of such street between the curbs or  
36 portion used for highway purposes up to a vertical height of twenty  
37 feet above the surface of the roadway;

1 (4) The city or town shall at its own expense maintain all  
2 underground facilities in such streets, and has the right to  
3 construct such additional underground facilities as may be necessary  
4 in such streets. However, pavement trenching and restoration  
5 performed as part of installation of such facilities must meet or  
6 exceed requirements established by the department;

7 (5) The city or town has the right to grant the privilege to open  
8 the surface of any such street, but all damage occasioned thereby  
9 shall promptly be repaired either by the city or town itself or at  
10 its direction. Pavement trenching and restoration performed under a  
11 privilege granted by the city under this subsection must meet or  
12 exceed requirements established by the department;

13 (6) Except as otherwise provided in subsection (17) of this  
14 section, the city or town at its own expense shall provide street  
15 illumination and shall clean all such streets, including storm sewer  
16 inlets and catch basins, and remove all snow, except that the state  
17 shall when necessary plow the snow on the roadway. In cities and  
18 towns having a population of twenty-seven thousand five hundred or  
19 less according to the latest determination of population by the  
20 office of financial management, the state, when necessary for public  
21 safety, shall assume, at its expense, responsibility for the  
22 stability of the slopes of cuts and fills and the embankments within  
23 the right-of-way to protect the roadway itself. When the population  
24 of a city or town first exceeds twenty-seven thousand five hundred  
25 according to the determination of population by the office of  
26 financial management, the city or town shall have three years from  
27 the date of the determination to plan for additional staffing,  
28 budgetary, and equipment requirements before being required to assume  
29 the responsibilities under this subsection. The state shall install,  
30 maintain, and operate all illuminating facilities on any limited  
31 access facility, together with its interchanges, located within the  
32 corporate limits of any city or town, and shall assume and pay the  
33 costs of all such installation, maintenance, and operation incurred  
34 after November 1, 1954;

35 (7) The department has the right to use all storm sewers on such  
36 highways without cost; and if new storm sewer facilities are  
37 necessary in construction of new streets by the department, the cost  
38 of the facilities shall be borne by the state and/or city as may be  
39 mutually agreed upon between the department and the governing body of  
40 the city or town;

1 (8) Cities and towns have exclusive right to grant franchises not  
2 in conflict with state laws and rules, over, beneath, and upon such  
3 streets, but the department is authorized to enforce in an action  
4 brought in the name of the state any condition of any franchise which  
5 a city or town has granted on such street. No franchise for  
6 transportation of passengers in motor vehicles may be granted on such  
7 streets without the approval of the department, but the department  
8 shall not refuse to approve such franchise unless another street  
9 conveniently located and of strength of construction to sustain  
10 travel of such vehicles is accessible;

11 (9) Every franchise or permit granted any person by a city or  
12 town for use of any portion of such street by a public utility must  
13 require the grantee or permittee to restore, repair, and replace any  
14 portion of the street damaged or injured by it to conditions that  
15 meet or exceed requirements established by the department;

16 (10) The city or town has the right to issue overload or  
17 overwidth permits for vehicles to operate on such streets or roads  
18 subject to regulations printed and distributed to the cities and  
19 towns by the department;

20 (11) Cities and towns shall regulate and enforce all traffic and  
21 parking restrictions on such streets, but all regulations adopted by  
22 a city or town relating to speed, parking, and traffic control  
23 devices on such streets not identical to state law relating thereto  
24 are subject to the approval of the department before becoming  
25 effective. All regulations pertaining to speed, parking, and traffic  
26 control devices relating to such streets heretofore adopted by a city  
27 or town not identical with state laws shall become null and void  
28 unless approved by the department heretofore or within one year after  
29 March 21, 1963;

30 (12) The department shall erect, control, and maintain at state  
31 expense all route markers and directional signs, except street signs,  
32 on such streets;

33 (13) Except as otherwise provided in subsection (17) of this  
34 section, the department shall install, operate, maintain, and control  
35 at state expense all traffic control signals, signs, and traffic  
36 control devices for the purpose of regulating both pedestrian and  
37 motor vehicular traffic on, entering upon, or leaving state highways  
38 in cities and towns having a population of twenty-seven thousand five  
39 hundred or less according to the latest determination of population  
40 by the office of financial management. Such cities and towns may

1 submit to the department a plan for traffic control signals, signs,  
2 and traffic control devices desired by them, indicating the location,  
3 nature of installation, or type thereof, or a proposed amendment to  
4 such an existing plan or installation, and the department shall  
5 consult with the cities or towns concerning the plan before  
6 installing such signals, signs, or devices. Cities and towns having a  
7 population in excess of twenty-seven thousand five hundred according  
8 to the latest determination of population by the office of financial  
9 management shall install, maintain, operate, and control such  
10 signals, signs, and devices at their own expense, subject to approval  
11 of the department for the installation and type only. When the  
12 population of a city or town first exceeds twenty-seven thousand five  
13 hundred according to the determination of population by the office of  
14 financial management, the city or town shall have three years from  
15 the date of the determination to plan for additional staffing,  
16 budgetary, and equipment requirements before being required to assume  
17 the responsibilities under this subsection. For the purpose of this  
18 subsection, striping, lane marking, and channelization are considered  
19 traffic control devices;

20 (14) All revenue from parking meters placed on such streets  
21 belongs to the city or town;

22 (15) Rights-of-way for such streets shall be acquired by either  
23 the city or town or by the state as shall be mutually agreed upon.  
24 Costs of acquiring rights-of-way may be at the sole expense of the  
25 state or at the expense of the city or town or at the expense of the  
26 state and the city or town as may be mutually agreed upon. Title to  
27 all such rights-of-way so acquired shall vest in the city or town:  
28 PROVIDED, That no vacation, sale, rental, or any other  
29 nontransportation use of any unused portion of any such street may be  
30 made by the city or town without the prior written approval of the  
31 department; and all revenue derived from sale, vacation, rental, or  
32 any nontransportation use of such rights-of-way shall be shared by  
33 the city or town and the state in the same proportion as the purchase  
34 costs were shared;

35 (16) If any city or town fails to perform any of its obligations  
36 as set forth in this section or in any cooperative agreement entered  
37 into with the department for the maintenance of a city or town street  
38 forming part of the route of a state highway, the department may  
39 notify the mayor of the city or town to perform the necessary  
40 maintenance within thirty days. If the city or town within the thirty

1 days fails to perform the maintenance or fails to authorize the  
2 department to perform the maintenance as provided by RCW 47.24.050,  
3 the department may perform the maintenance, the cost of which is to  
4 be deducted from any sums in the motor vehicle fund credited or to be  
5 credited to the city or town;

6 (17) The population thresholds identified in subsections (6) and  
7 (13) of this section shall be increased as follows:

8 (a) Thirty thousand on July 1, 2023;

9 (b) Thirty-two thousand five hundred on July 1, 2028; and

10 (c) Thirty-five thousand on July 1, 2033.

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