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**SENATE BILL 5260**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Zeiger, Hunt, Hobbs, Takko, Bailey, and Conway

Read first time 01/16/19. Referred to Committee on State Government, Tribal Relations & Elections.

1 AN ACT Relating to powers to waive statutory obligations or  
2 limitations during a state of emergency in order to cope with the  
3 emergency; amending RCW 43.06.220; and creating a new section.

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

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

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

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

3 (2) The legislature intends to allow the governor to immediately  
4 respond during a proclaimed state of emergency by temporarily waiving  
5 or suspending other statutory obligations or limitations prescribing  
6 the procedures for conduct of state business, or the orders, rules,  
7 or regulations of any state agency, if strict compliance would in any  
8 way prevent, hinder, or delay necessary action in coping with the  
9 emergency.

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

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

1        ~~((i))~~ (h) Such other activities as he or she reasonably  
2 believes should be prohibited to help preserve and maintain life,  
3 health, property or 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 prescribing the procedures for conduct of state business,  
21 or the orders, rules, or regulations of any state agency if strict  
22 compliance with the provision of any statute, order, rule, or  
23 regulation would in any way prevent, hinder, or delay necessary  
24 action in coping with the emergency, unless (i) authority to waive or  
25 suspend a specific statutory or regulatory obligation or limitation  
26 has been expressly granted to another statewide elected official,  
27 (ii) the waiver or suspension would conflict with federal  
28 requirements that are a prescribed condition to the allocation of  
29 federal funds to the state, or (iii) the waiver or suspension would  
30 conflict with the rights, under the First Amendment, of freedom of  
31 speech or of the people to peaceably assemble. The governor shall  
32 give as much notice as practical to legislative leadership and  
33 impacted local governments when issuing orders under this subsection  
34 (2)(g).

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

39       (4) No order or orders concerning waiver or suspension of  
40 statutory obligations or limitations under subsection (2) of this

1 section may continue for longer than thirty days unless extended by  
2 the legislature through concurrent resolution. If the legislature is  
3 not in session, the waiver or suspension of statutory obligations or  
4 limitations may be extended in writing by the leadership of the  
5 senate and the house of representatives until the legislature can  
6 extend the waiver or suspension by concurrent resolution. For  
7 purposes of this section, "leadership of the senate and the house of  
8 representatives" means the majority leaders of the senate and the  
9 house of representatives and the minority leaders of the senate and  
10 the house of representatives.

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

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