

SB 5260 - H COMM AMD

By Committee on Housing, Community Development & Veterans

ADOPTED AS AMENDED 04/17/2019

1 Strike everything after the enacting clause and insert the
2 following:

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

12 (b) The legislature further finds that, in response to issues
13 arising from flooding events in 2007, RCW 43.06.220(2) was amended by
14 chapter 181, Laws of 2008, to explicitly authorize the governor to
15 temporarily waive or suspend a set of specifically identified
16 statutes. This amendment has become problematic for subsequent
17 emergency response activities because it has inadvertently narrowed
18 the governor's ability to waive or suspend statutes under RCW
19 43.06.220(1)(h) by issuing orders temporarily prohibiting compliance
20 with statutes not expressly identified in RCW 43.06.220(2).

21 (2) The legislature intends to allow the governor to immediately
22 respond during a proclaimed state of emergency by temporarily waiving
23 or suspending other statutory obligations or limitations prescribing
24 the procedures for conduct of state business, or the orders, rules,
25 or regulations of any state agency, if strict compliance would in any
26 way prevent, hinder, or delay necessary action in coping with the
27 emergency.

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

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

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

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

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

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

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

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

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

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

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

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

36 (a) Liability for participation in interlocal agreements;

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

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

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

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

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

7 (g) Such other statutory and regulatory obligations or
8 limitations prescribing the procedures for conduct of state business,
9 or the orders, rules, or regulations of any state agency if strict
10 compliance with the provision of any statute, order, rule, or
11 regulation would in any way prevent, hinder, or delay necessary
12 action in coping with the emergency, unless (i) authority to waive or
13 suspend a specific statutory or regulatory obligation or limitation
14 has been expressly granted to another statewide elected official,
15 (ii) the waiver or suspension would conflict with federal
16 requirements that are a prescribed condition to the allocation of
17 federal funds to the state, or (iii) the waiver or suspension would
18 conflict with the rights, under the First Amendment, of freedom of
19 speech or of the people to peaceably assemble. The governor shall
20 give as much notice as practical to legislative leadership and
21 impacted local governments when issuing orders under this subsection
22 (2) (g).

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

27 (4) No order or orders concerning waiver or suspension of
28 statutory obligations or limitations under subsection (2) of this
29 section may continue for longer than thirty days unless extended by
30 the legislature through concurrent resolution. If the legislature is
31 not in session, the waiver or suspension of statutory obligations or
32 limitations may be extended in writing by the leadership of the
33 senate and the house of representatives until the legislature can
34 extend the waiver or suspension by concurrent resolution. For
35 purposes of this section, "leadership of the senate and the house of
36 representatives" means the majority and minority leaders of the
37 senate and the speaker and the minority leader of the house of
38 representatives.

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

4 Correct the title.

EFFECT: Includes the Speaker in the definition of leadership for
the House of Representatives instead of the Majority Leader.

--- END ---