

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2135

68th Legislature
2024 Regular Session

Passed by the House March 5, 2024
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate February 28,
2024
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2135** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2135

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Representatives Stearns, Lekanoff, Reed, Ormsby, Street, Orwall, Doglio, and Reeves; by request of Military Department

Prefiled 01/04/24. Read first time 01/08/24. Referred to Committee on Innovation, Community & Economic Development, & Veterans.

1 AN ACT Relating to including federally recognized tribes as part
2 of the Washington emergency management division emergency worker
3 program; and amending RCW 38.52.010 and 38.52.180.

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

5 **Sec. 1.** RCW 38.52.010 and 2022 c 203 s 2 are each amended to
6 read as follows:

7 As used in this chapter:

8 (1) "911 emergency communications system" means a public 911
9 communications system consisting of a network, database, and on-
10 premises equipment that is accessed by dialing or accessing 911 and
11 that enables reporting police, fire, medical, or other emergency
12 situations to a public safety answering point. The system includes
13 the capability to selectively route incoming 911 voice and data to
14 the appropriate public safety answering point that operates in a
15 defined 911 service area and the capability to automatically display
16 the name, location, and telephone number of incoming 911 voice and
17 data at the appropriate public safety answering point.

18 (2) "Automatic location identification" means information about a
19 caller's location that is part of or associated with an enhanced or
20 next generation 911 emergency communications system as defined in
21 this section and RCW 82.14B.020 and intended for the purpose of

1 display at a public safety answering point with incoming 911 voice or
2 data, or both.

3 (3) "Automatic number identification" means a method for uniquely
4 associating a communication device that has accessed 911 with the
5 incoming 911 voice or data, or both, and intended for the purpose of
6 display at a public safety answering point.

7 (4) "Baseline level of 911 service" means access to 911 dialing
8 from all communication devices with service from a telecommunications
9 provider within a county's jurisdiction so that incoming 911 voice
10 and data communication is answered, received, and displayed on 911
11 equipment at a public safety answering point designated by the
12 county.

13 (5) "Broadcaster" means a person or entity that holds a license
14 issued by the federal communications commission under 47 C.F.R. Part
15 73, 74, 76, or 78.

16 (6) (a) "Catastrophic incident" means any natural or human-caused
17 incident, including terrorism and enemy attack, that results in
18 extraordinary levels of mass casualties, damage, or disruption
19 severely affecting the population, infrastructure, environment,
20 economy, or government functions.

21 (b) "Catastrophic incident" does not include an event resulting
22 from individuals exercising their rights, under the first amendment,
23 of freedom of speech, and of the people to peaceably assemble.

24 (7) "Communication plan," as used in RCW 38.52.070, means a
25 section in a local comprehensive emergency management plan that
26 addresses emergency notification of life safety information.

27 (8) "Continuity of government planning" means the internal effort
28 of all levels and branches of government to provide that the
29 capability exists to continue essential functions and services
30 following a catastrophic incident. These efforts include, but are not
31 limited to, providing for: (a) Orderly succession and appropriate
32 changes of leadership whether appointed or elected; (b) filling
33 vacancies; (c) interoperability communications; and (d) processes and
34 procedures to reconvene government following periods of disruption
35 that may be caused by a catastrophic incident. Continuity of
36 government planning is intended to preserve the constitutional and
37 statutory authority of elected officials at the state and local level
38 and provide for the continued performance of essential functions and
39 services by each level and branch of government.

1 (9) "Continuity of operations planning" means the internal effort
2 of an organization to provide that the capability exists to continue
3 essential functions and services in response to a comprehensive array
4 of potential emergencies or disasters.

5 (10) "Department" means the state military department.

6 (11) "Director" means the adjutant general.

7 (12) "Emergency management" or "comprehensive emergency
8 management" means the preparation for and the carrying out of all
9 emergency functions, other than functions for which the military
10 forces are primarily responsible, to mitigate, prepare for, respond
11 to, and recover from emergencies and disasters, and to aid victims
12 suffering from injury or damage, resulting from disasters caused by
13 all hazards, whether natural, technological, or human caused, and to
14 provide support for search and rescue operations for persons and
15 property in distress. However, "emergency management" or
16 "comprehensive emergency management" does not mean preparation for
17 emergency evacuation or relocation of residents in anticipation of
18 nuclear attack.

19 (13)(a) "Emergency or disaster" as used in all sections of this
20 chapter except RCW 38.52.430 means an event or set of circumstances
21 which: (i) Demands immediate action to preserve public health,
22 protect life, protect public property, or to provide relief to any
23 stricken community overtaken by such occurrences; or (ii) reaches
24 such a dimension or degree of destructiveness as to warrant the
25 governor proclaiming a state of emergency pursuant to RCW 43.06.010.

26 (b) "Emergency" as used in RCW 38.52.430 means an incident that
27 requires a normal police, coroner, fire, rescue, emergency medical
28 services, or utility response as a result of a violation of one of
29 the statutes enumerated in RCW 38.52.430.

30 (14) "Emergency response" as used in RCW 38.52.430 means a public
31 agency's use of emergency services during an emergency or disaster as
32 defined in subsection (13)(b) of this section.

33 (15) "Emergency services communication system" means a
34 multicounty or countywide communications network, including an
35 enhanced or next generation 911 emergency communications system,
36 which provides rapid public access for coordinated dispatching of
37 services, personnel, equipment, and facilities for police, fire,
38 medical, or other emergency services.

39 (16) "Emergency services communications system data" includes
40 voice or audio; multimedia, including pictures and video; text

1 messages; telematics or telemetrics; or other information that is
2 received or displayed, or both, at a public safety answering point in
3 association with a 911 access.

4 (17) "Emergency worker" means any person who is registered with a
5 local emergency management organization, any federally recognized
6 Indian tribe as defined in RCW 43.376.010 provided the department is
7 in receipt of a tribal government resolution declaring its intention
8 to be a participant in the emergency worker program under this
9 chapter, or the department and holds an identification card issued by
10 the local emergency management director, tribal government, or the
11 department for the purpose of engaging in authorized emergency
12 management activities or is an employee of the state of Washington or
13 any political subdivision thereof who is called upon to perform
14 emergency management activities.

15 (18) "Executive head" and "executive heads" means the county
16 executive in those charter counties with an elective office of county
17 executive, however designated, and, in the case of other counties,
18 the county legislative authority. In the case of cities and towns, it
19 means the mayor in those cities and towns with mayor-council or
20 commission forms of government, where the mayor is directly elected,
21 and it means the city manager in those cities and towns with council
22 manager forms of government. Cities and towns may also designate an
23 executive head for the purposes of this chapter by ordinance.

24 (19) "Expense of an emergency response" as used in RCW 38.52.430
25 means reasonable costs incurred by a public agency in reasonably
26 making an appropriate emergency response to the incident, but shall
27 only include those costs directly arising from the response to the
28 particular incident. Reasonable costs shall include the costs of
29 providing police, coroner, firefighting, rescue, emergency medical
30 services, or utility response at the scene of the incident, as well
31 as the salaries of the personnel responding to the incident.

32 (20) "First informer broadcaster" means an individual who:

33 (a) Is employed by, or acting pursuant to a contract under the
34 direction of, a broadcaster; and

35 (b) (i) Maintains, including repairing or resupplying,
36 transmitters, generators, or other essential equipment at a broadcast
37 station or facility; or (ii) provides technical support services to
38 broadcasters needed during a period of proclaimed emergency.

39 (21) "Incident command system" means: (a) An all-hazards, on-
40 scene functional management system that establishes common standards

1 in organization, terminology, and procedures; provides a means
2 (unified command) for the establishment of a common set of incident
3 objectives and strategies during multiagency/multijurisdiction
4 operations while maintaining individual agency/jurisdiction
5 authority, responsibility, and accountability; and is a component of
6 the national interagency incident management system; or (b) an
7 equivalent and compatible all-hazards, on-scene functional management
8 system.

9 (22) "Injury" as used in this chapter shall mean and include
10 accidental injuries and/or occupational diseases arising out of
11 emergency management activities.

12 (23) "Interconnected voice over internet protocol service
13 provider" means a provider of interconnected voice over internet
14 protocol service as defined by the federal communications commission
15 in 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent date
16 determined by the department.

17 (24) "Life safety information" means information provided to
18 people during a response to a life-threatening emergency or disaster
19 informing them of actions they can take to preserve their safety.
20 Such information may include, but is not limited to, information
21 regarding evacuation, sheltering, sheltering-in-place, facility
22 lockdown, and where to obtain food and water.

23 (25) "Local director" means the director of a local organization
24 of emergency management or emergency services.

25 (26) "Local organization for emergency services or management"
26 means an organization created in accordance with the provisions of
27 this chapter by state or local authority to perform local emergency
28 management functions.

29 (27) "Next generation 911" means an internet protocol-based
30 system comprised of managed emergency services internet protocol
31 networks, functional elements (applications), and databases that
32 replicate enhanced 911 features and functions as defined in RCW
33 82.14B.020(4) that provide additional capabilities designed to
34 provide access to emergency services from all connected
35 communications sources and provide multimedia data capabilities for
36 public safety answering points.

37 (28) "Next generation 911 demarcation point" means the location
38 and equipment that separates the next generation 911 network from:

39 (a) A telecommunications provider's network, known as the ingress
40 next generation 911 demarcation point; and

1 (b) A public safety answering point, known as the egress next
2 generation 911 demarcation point.

3 (29) "Next generation 911 emergency communications system" means
4 a public communications system consisting of networks, databases, and
5 public safety answering point 911 hardware, software, and technology
6 that is accessed by the public in the state through 911. The system
7 includes the capability to: Route incoming 911 voice and data to the
8 appropriate public safety answering point that operates in a defined
9 911 service area; answer incoming 911 voice and data; and receive and
10 display incoming 911 voice and data, including automatic location
11 identification and automatic number identification, at a public
12 safety answering point. "Next generation 911 emergency communications
13 system" includes future modernizations to the 911 system.

14 (30) "Next generation 911 emergency services internet protocol
15 network" means a managed internet protocol network used for 911
16 emergency services communications that is managed and maintained,
17 including security and credentialing functions, by the state 911
18 coordination office to provide next generation 911 emergency
19 communications from the ingress next generation 911 demarcation point
20 to the egress next generation 911 demarcation point. It provides the
21 internet protocol transport infrastructure upon which application
22 platforms and core services are necessary for providing next
23 generation 911 services. Next generation 911 emergency services
24 internet protocol networks may be constructed from a mix of dedicated
25 and shared facilities and may be interconnected at local, regional,
26 state, federal, national, and international levels to form an
27 internet protocol-based inter-network (network of networks).

28 (31) "Next generation 911 service" means public access to the
29 next generation 911 emergency communications system and its
30 capabilities by accessing 911 from communication devices to report
31 police, fire, medical, or other emergency situations to a public
32 safety answering point.

33 (32) "Political subdivision" means any county, city or town.

34 (33) "Public agency" means the state, and a city, county,
35 municipal corporation, district, town, or public authority located,
36 in whole or in part, within this state which provides or may provide
37 firefighting, police, ambulance, medical, or other emergency
38 services.

39 (34) "Public safety answering point" means the public safety
40 location that receives and answers 911 voice and data originating in

1 a given area as designated by the county. Public safety answering
2 points must be equipped with 911 hardware, software, and technology
3 that is accessed through 911 and is capable of answering incoming 911
4 calls and receiving and displaying incoming 911 data.

5 (a) "Primary public safety answering point" means a public safety
6 answering point, as designated by the county, to which 911 calls and
7 data originating in a given area and entering the next generation 911
8 network are initially routed for answering.

9 (b) "Secondary public safety answering point" means a public
10 safety answering point, as designated by the county, that only
11 receives 911 voice and data that has been transferred by other public
12 safety answering points.

13 (35) "Radio communications service company" means every
14 corporation, company, association, joint stock, partnership, and
15 person, their lessees, trustees, or receivers appointed by any court,
16 and every city or town making available facilities to provide
17 commercial mobile radio services, as defined by 47 U.S.C. Sec.
18 332(d)(1), or cellular communications services for hire, sale, and
19 both facilities-based and nonfacilities-based resellers, and does not
20 include radio paging providers.

21 (36) "Search and rescue" means the acts of searching for,
22 rescuing, or recovering by means of ground, marine, or air activity
23 any person who becomes lost, injured, or is killed while outdoors or
24 as a result of a natural, technological, or human-caused disaster,
25 including instances involving searches for downed aircraft when
26 ground personnel are used. Nothing in this section shall affect
27 appropriate activity by the department of transportation under
28 chapter 47.68 RCW.

29 (37) "Telecommunications provider" means a telecommunications
30 company as defined in RCW 80.04.010, a radio communications service
31 company as defined in (~~RCW 38.52.010~~) this section, a commercial
32 mobile radio service provider as defined in 47 C.F.R. Sec. 20.3,
33 providers of interconnected voice over internet protocol service as
34 defined in (~~RCW 38.52.010~~) this section, and providers of data
35 services.

36 (38) "Washington state patrol public safety answering points"
37 means those designated as primary or secondary public safety
38 answering points by the counties in which they provide service.

1 **Sec. 2.** RCW 38.52.180 and 2017 c 36 s 1 are each amended to read
2 as follows:

3 (1) There shall be no liability on the part of anyone including
4 any person, partnership, corporation, the state of Washington or any
5 political subdivision thereof who owns or maintains any building or
6 premises which have been designated by a local organization for
7 emergency management as a shelter from destructive operations or
8 attacks by enemies of the United States for any injuries sustained by
9 any person while in or upon said building or premises, as a result of
10 the condition of said building or premises or as a result of any act
11 or omission, or in any way arising from the designation of such
12 premises as a shelter, when such person has entered or gone upon or
13 into said building or premises for the purpose of seeking refuge
14 therein during destructive operations or attacks by enemies of the
15 United States or during tests ordered by lawful authority, except for
16 an act of willful negligence by such owner or occupant or his or her
17 servants, agents, or employees.

18 (2) All legal liability for damage to property or injury or death
19 to persons (except an emergency worker, regularly enrolled and acting
20 as such), caused by acts done or attempted during or while traveling
21 to or from an emergency or disaster, search and rescue, or training
22 or exercise authorized by the department in preparation for an
23 emergency or disaster or search and rescue, under the color of this
24 chapter in a bona fide attempt to comply therewith, except as
25 provided in subsections (3), (4), and (5) of this section regarding
26 covered volunteer emergency workers, shall be the obligation of the
27 state of Washington. Suits may be instituted and maintained against
28 the state for the enforcement of such liability, or for the
29 indemnification of persons appointed and regularly enrolled as
30 emergency workers while actually engaged in emergency management
31 duties, or as members of any agency of the state or political
32 subdivision thereof, or federally recognized Indian tribe as defined
33 in RCW 43.376.010, engaged in emergency management activity, or their
34 dependents, for damage done to their private property, or for any
35 judgment against them for acts done in good faith in compliance with
36 this chapter: PROVIDED, That the foregoing shall not be construed to
37 result in indemnification in any case of willful misconduct, gross
38 negligence, or bad faith on the part of any agent of emergency
39 management: PROVIDED, That should the United States or any agency
40 thereof, in accordance with any federal statute, rule, or regulation,

1 provide for the payment of damages to property and/or for death or
2 injury as provided for in this section, then and in that event there
3 shall be no liability or obligation whatsoever upon the part of the
4 state of Washington for any such damage, death, or injury for which
5 the United States government assumes liability.

6 (3) No act or omission by a covered volunteer emergency worker
7 while engaged in a covered activity shall impose any liability for
8 civil damages resulting from such an act or omission upon:

9 (a) The covered volunteer emergency worker;

10 (b) The supervisor or supervisors of the covered volunteer
11 emergency worker;

12 (c) Any facility or their officers or employees;

13 (d) The employer of the covered volunteer emergency worker;

14 (e) The owner of the property or vehicle where the act or
15 omission may have occurred during the covered activity;

16 (f) Any local organization that registered the covered volunteer
17 emergency worker;

18 (g) The state or any state or local governmental entity; (~~and~~)

19 (h) Federally recognized Indian tribes as defined in RCW
20 43.376.010; and

21 (i) Any professional or trade association of covered volunteer
22 emergency workers.

23 (4) The immunity in subsection (3) of this section applies only
24 when the covered volunteer emergency worker was engaged in a covered
25 activity:

26 (a) Within the scope of his or her assigned duties;

27 (b) Under the direction of a local emergency management
28 organization or the department, or a local law enforcement agency for
29 search and rescue; and

30 (c) The act or omission does not constitute gross negligence or
31 willful or wanton misconduct.

32 (5) For purposes of this section:

33 (a) "Covered volunteer emergency worker" means an emergency
34 worker as defined in RCW 38.52.010 who (i) is not receiving or
35 expecting compensation as an emergency worker from the state or local
36 government, or (ii) is not a state or local government employee
37 unless on leave without pay status.

38 (b) "Covered activity" means:

39 (i) Providing assistance or transportation authorized by the
40 department during an emergency or disaster or search and rescue as

1 defined in RCW 38.52.010, whether such assistance or transportation
2 is provided at the scene of the emergency or disaster or search and
3 rescue, at an alternative care site, at a hospital, or while in route
4 to or from such sites or between sites; or

5 (ii) Participating in training or exercise authorized by the
6 department in preparation for an emergency or disaster or search and
7 rescue.

8 (6) Any requirement for a license to practice any professional,
9 mechanical, or other skill shall not apply to any authorized
10 emergency worker who shall, in the course of performing his or her
11 duties as such, practice such professional, mechanical, or other
12 skill during an emergency described in this chapter.

13 (7) The provisions of this section shall not affect the right of
14 any person to receive benefits to which he or she would otherwise be
15 entitled under this chapter, or under the workers' compensation law,
16 or under any pension or retirement law, nor the right of any such
17 person to receive any benefits or compensation under any act of
18 congress.

19 (8) Any act or omission by a covered volunteer emergency worker
20 while engaged in a covered activity using an off-road vehicle,
21 nonhighway vehicle, or wheeled all-terrain vehicle does not impose
22 any liability for civil damages resulting from such an act or
23 omission upon the covered volunteer emergency worker or the worker's
24 sponsoring organization.

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