H-0116.1

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**HOUSE BILL 1535**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Corry, Abbarno, Stokesbary, Robertson, McClintock, Couture, Goehner, Connors, Griffey, Schmick, Christian, Jacobsen, Schmidt, Volz, Chambers, Eslick, Cheney, Hutchins, Barkis, Graham, Rude, Klicker, and Walsh

AN ACT Relating to increasing legislative involvement in gubernatorial proclamations relating to a state of emergency; amending RCW 43.06.210 and 43.06.220; creating a new section; prescribing penalties; and declaring an emergency.

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

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

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

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

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

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

(b) The passage of a concurrent resolution by the legislature declaring the termination of the state of emergency. If the legislature is not in session, the state of emergency may be terminated in writing by all of the four members of the leadership of the senate and the house of representatives; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Liability for participation in interlocal agreements;

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

(c) Application of the family emergency assistance program;

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

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

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

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

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

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

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

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

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

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

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

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

(7) Any person willfully violating any provision of an order issued by the governor under this section is guilty of a ((~~gross misdemeanor~~)) civil infraction and may receive a fine of up to $1,000, to be imposed at the discretion of the agency responsible for implementing the provision of the order that has been violated, or by the governor if no agency is responsible for implementation.

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

**--- END ---**