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**HOUSE BILL 2135**

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**State of Washington 68th Legislature 2024 Regular Session**

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

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

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

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

As used in this chapter:

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

(2) "Automatic location identification" means information about a caller's location that is part of or associated with an enhanced or next generation 911 emergency communications system as defined in this section and RCW 82.14B.020 and intended for the purpose of display at a public safety answering point with incoming 911 voice or data, or both.

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

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

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

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

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

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

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

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

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

(11) "Director" means the adjutant general.

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

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

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

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

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

(16) "Emergency services communications system data" includes voice or audio; multimedia, including pictures and video; text messages; telematics or telemetrics; or other information that is received or displayed, or both, at a public safety answering point in association with a 911 access.

(17) "Emergency worker" means any person who is registered with a local emergency management organization, any federally recognized Indian tribe located within the boundaries of the state of Washington provided the department is in receipt of a tribal government resolution declaring its intention to be a participant in the emergency worker program under this chapter, or the department and holds an identification card issued by the local emergency management director, tribal government, or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

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

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

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

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

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

(21) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and strategies during multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(34) "Public safety answering point" means the public safety location that receives and answers 911 voice and data originating in a given area as designated by the county. Public safety answering points must be equipped with 911 hardware, software, and technology that is accessed through 911 and is capable of answering incoming 911 calls and receiving and displaying incoming 911 data.

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

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

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

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

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

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

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

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

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done or attempted during or while traveling to or from an emergency or disaster, search and rescue, or training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue, under the color of this chapter in a bona fide attempt to comply therewith, except as provided in subsections (3), (4), and (5) of this section regarding covered volunteer emergency workers, shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof, or federally recognized Indian tribe located within the boundaries of the state, engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: PROVIDED, That the foregoing shall not be construed to result in indemnification in any case of willful misconduct, gross negligence, or bad faith on the part of any agent of emergency management: PROVIDED, That should the United States or any agency thereof, in accordance with any federal statute, rule, or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

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

(a) The covered volunteer emergency worker;

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

(c) Any facility or their officers or employees;

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

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

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

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

(h) Federally recognized Indian tribes located within the boundaries of the state; and

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

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

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

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

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

(5) For purposes of this section:

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

(b) "Covered activity" means:

(i) Providing assistance or transportation authorized by the department during an emergency or disaster or search and rescue as defined in RCW 38.52.010, whether such assistance or transportation is provided at the scene of the emergency or disaster or search and rescue, at an alternative care site, at a hospital, or while in route to or from such sites or between sites; or

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

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

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

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

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