
SENATE BILL 5063

State of Washington

68th Legislature

2023 Regular Session

By Senators L. Wilson, Mullet, Braun, Dozier, Fortunato, Holy, Muzzall, Short, Torres, Wagoner, Warnick, and J. Wilson

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1 AN ACT Relating to establishing balanced legislative oversight of
2 gubernatorial powers during a declared emergency; amending RCW
3 43.06.210 and 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.** This act may be known and cited as the
6 bipartisan approach to legislative authority necessary in continuing
7 emergencies (BALANCE) act of 2023.

8 **Sec. 2.** RCW 43.06.210 and 2013 c 21 s 1 are each amended to read
9 as follows:

10 (1) The proclamation of a state of emergency and other
11 proclamations or orders issued by the governor pursuant to RCW
12 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter
13 amended shall be in writing and shall be signed by the governor and
14 shall then be filed with the secretary of state. A proclamation of a
15 state of emergency is effective upon the governor's signature.

16 (2) The governor shall give as much public notice as practical
17 through the news media of the issuance of proclamations or orders
18 pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or
19 hereafter amended.

1 (3) The state of emergency shall cease to exist upon ((the)) any
2 of the following:

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

7 (b) If the legislature is in session, through passage of a
8 concurrent resolution terminating the state of emergency; or

9 (c) If the legislature is not in session and it has been more
10 than 90 days since the state of emergency was declared by the
11 governor, termination of the state of emergency in writing by all
12 four members of the leadership of the senate and house of
13 representatives. For the purposes of this section, "leadership of the
14 senate and the house of representatives" means the majority and
15 minority leaders of the senate and the speaker and minority leader of
16 the house of representatives.

17 **Sec. 3.** RCW 43.06.220 and 2019 c 472 s 2 are each amended to
18 read as follows:

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

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

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

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

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

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

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

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

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

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

10 (a) Liability for participation in interlocal agreements;

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

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

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

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

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

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

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

1 (4) No order or orders (~~(concerning waiver or suspension of~~
2 ~~statutory obligations or limitations)~~) under subsection (1) or (2) of
3 this section may continue for longer than thirty days unless extended
4 by the legislature through concurrent resolution. If the legislature
5 is not in session, the (~~(waiver or suspension of statutory~~
6 ~~obligations or limitations)~~) order or orders may be extended in
7 writing by all four leaders of the leadership of the senate and the
8 house of representatives until the legislature can extend the
9 (~~(waiver or suspension)~~) order or orders by concurrent resolution.
10 For purposes of this section, "leadership of the senate and the house
11 of representatives" means the majority and minority leaders of the
12 senate and the speaker and the minority leader of the house of
13 representatives.

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

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