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HOUSE BILL 1535

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State of Washington

68th Legislature

2023 Regular Session

By Representatives Corry and Abbarno

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

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that the  
7 executive branch is well-equipped to confront emergencies and lead  
8 responses. However, for long-lasting states of emergency when the  
9 continuity of government has not been disrupted, the legislature  
10 finds that each of the branches of government has a role to play.  
11 Accordingly, this act is designed to ensure adequate legislative  
12 involvement in long-lasting states of emergency.

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

15 (1) The proclamation of a state of emergency and other  
16 proclamations or orders issued by the governor pursuant to RCW  
17 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter  
18 amended shall be in writing and shall be signed by the governor and  
19 shall then be filed with the secretary of state. A proclamation of a  
20 state of emergency is effective upon the governor's signature. The

1 governor shall give as much public notice as practical through the  
2 news media of the issuance of proclamations or orders pursuant to RCW  
3 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter  
4 amended.

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

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

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

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

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

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

1 minority leader of the second largest caucus of the house of  
2 representatives.

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

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

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

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

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

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

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

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

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

28 (h) Such other activities as he or she reasonably believes should  
29 be prohibited to help preserve and maintain life, health, property or  
30 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 the following areas:

35 (a) Liability for participation in interlocal agreements;

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

38 (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;

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)~~) Any restrictions imposed by the governor  
24 as provided for by RCW 43.06.010((r)) and 43.06.200 through  
25 43.06.270((r, the governor may impose them)) are in effect for such  
26 times, upon such conditions, with such exceptions, and in such areas  
27 of this state (~~(he or she)~~) that the governor from time to time deems  
28 necessary, except that:

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

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

34 (4) No order or orders (~~(concerning waiver or suspension of~~  
35 ~~statutory obligations or limitations under subsection (2) of)~~) under  
36 this section may continue for longer than thirty days unless extended  
37 by the legislature through concurrent resolution. If the legislature  
38 is not in session, (~~(the waiver or suspension of statutory~~  
39 ~~obligations or limitations)) an order under this section may be  
40 extended in writing by all of the four members of the leadership of~~

1 the senate and the house of representatives until the legislature can  
2 extend the ~~((waiver or suspension))~~ order under this section by  
3 concurrent resolution.

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

10 ~~((5))~~ (6) An order issued by the governor under this section  
11 must be drafted in a format that complies with the following:

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

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

22 (7) Any person willfully violating any provision of an order  
23 issued by the governor under this section is guilty of a ((gross  
24 misdemeanor)) civil infraction and may receive a fine of up to  
25 \$1,000, to be imposed at the discretion of the agency responsible for  
26 implementing the provision of the order that has been violated, or by  
27 the governor if no agency is responsible for implementation.

28 NEW SECTION. Sec. 4. This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of  
30 the state government and its existing public institutions, and takes  
31 effect immediately.

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