

**HB 1073** - S COMM AMD

By Committee on Government Operations & Elections

ADOPTED 04/11/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 38.52.010 and 2002 c 341 s 2 are each amended to read  
4 as follows:

5 As used in this chapter:

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

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

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

22 (4) "Emergency worker" means any person(~~(, including but not~~  
23 ~~limited to an architect registered under chapter 18.08 RCW or a~~  
24 ~~professional engineer registered under chapter 18.43 RCW,)) who is  
25 registered with a local emergency management organization or the  
26 department and holds an identification card issued by the local  
27 emergency management director or the department for the purpose of  
28 engaging in authorized emergency management activities or is an  
29 employee of the state of Washington or any political subdivision  
30 thereof who is called upon to perform emergency management activities.~~

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

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

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

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

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

31 (9) "Director" means the adjutant general.

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

34 (11) "Department" means the state military department.

35 (12) "Emergency response" as used in RCW 38.52.430 means a public  
36 agency's use of emergency services during an emergency or disaster as  
37 defined in subsection (6)(b) of this section.

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

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

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

22 (16) "Radio communications service company" has the meaning  
23 ascribed to it in RCW 82.14B.020.

24 **Sec. 2.** RCW 38.52.180 and 1987 c 185 s 7 are each amended to read  
25 as follows:

26 (1) There shall be no liability on the part of anyone including any  
27 person, partnership, corporation, the state of Washington or any  
28 political subdivision thereof who owns or maintains any building or  
29 premises which have been designated by a local organization for  
30 emergency management as a shelter from destructive operations or  
31 attacks by enemies of the United States for any injuries sustained by  
32 any person while in or upon said building or premises, as a result of  
33 the condition of said building or premises or as a result of any act or  
34 omission, or in any way arising from the designation of such premises  
35 as a shelter, when such person has entered or gone upon or into said  
36 building or premises for the purpose of seeking refuge therein during  
37 destructive operations or attacks by enemies of the United States or

1 during tests ordered by lawful authority, except for an act of willful  
2 negligence by such owner or occupant or his servants, agents, or  
3 employees.

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

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

- 34 (a) The covered volunteer emergency worker;
- 35 (b) The supervisor or supervisors of the covered volunteer  
36 emergency worker;
- 37 (c) Any facility or their officers or employees;
- 38 (d) The employer of the covered volunteer emergency worker;

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

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

5 (g) The state or any state or local governmental entity.

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

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

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

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

15 (5) For purposes of this section:

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

21 (b) "Covered activity" means:

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

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

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

36 ~~((+4))~~ (7) The provisions of this section shall not affect the  
37 right of any person to receive benefits to which he would otherwise be

1 entitled under this chapter, or under the workers' compensation law, or  
2 under any pension or retirement law, nor the right of any such person  
3 to receive any benefits or compensation under any act of congress.

4 NEW SECTION. **Sec. 3.** RCW 38.52.570 (Immunity from liability for  
5 covered volunteers) and 2006 c 72 s 2 are each repealed."

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**ADOPTED 04/11/2007**

6 On page 1, line 1 of the title, after "workers;" strike the  
7 remainder of the title and insert "amending RCW 38.52.010 and  
8 38.52.180; and repealing RCW 38.52.570."

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