
HOUSE BILL 1073

State of Washington

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By Representatives Schual-Berke, O'Brien, Anderson, Hudgins, Appleton, Green, Rodne, Ormsby, Cody, Dickerson, Morrell, Kenney and Pearson; by request of Military Department

Read first time 01/10/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to emergency workers; amending RCW 38.52.010 and
2 38.52.180; and repealing RCW 38.52.570.

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

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

6 As used in this chapter:

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

18 (2) "Local organization for emergency services or management" means

1 an organization created in accordance with the provisions of this
2 chapter by state or local authority to perform local emergency
3 management functions.

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

5 (4) "Emergency worker" means any person(~~(, including but not~~
6 ~~limited to an architect registered under chapter 18.08 RCW or a~~
7 ~~professional engineer registered under chapter 18.43 RCW,)) who is
8 registered with a local emergency management organization or the
9 department and holds an identification card issued by the local
10 emergency management director or the department for the purpose of
11 engaging in authorized emergency management activities or is an
12 employee of the state of Washington or any political subdivision
13 thereof who is called upon to perform emergency management activities.~~

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

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

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

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

35 (8) "Executive head" and "executive heads" means the county
36 executive in those charter counties with an elective office of county
37 executive, however designated, and, in the case of other counties, the
38 county legislative authority. In the case of cities and towns, it

1 means the mayor in those cities and towns with mayor-council or
2 commission forms of government, where the mayor is directly elected,
3 and it means the city manager in those cities and towns with council
4 manager forms of government. Cities and towns may also designate an
5 executive head for the purposes of this chapter by ordinance.

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

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

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

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

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

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

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

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

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

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

16 (2) All legal liability for damage to property or injury or death
17 to persons (except an emergency worker, regularly enrolled and acting
18 as such), caused by acts done((τ)) or attempted during or while
19 traveling to or from an emergency or disaster, search and rescue, or
20 training or exercise authorized by the department in preparation for an
21 emergency or disaster or search and rescue, under the color of this
22 chapter in a bona fide attempt to comply therewith, except as provided
23 in subsections (3), (4), and (5) of this section regarding covered
24 volunteer emergency workers, shall be the obligation of the state of
25 Washington. Suits may be instituted and maintained against the state
26 for the enforcement of such liability, or for the indemnification of
27 persons appointed and regularly enrolled as emergency workers while
28 actually engaged in emergency management duties, or as members of any
29 agency of the state or political subdivision thereof engaged in
30 emergency management activity, or their dependents, for damage done to
31 their private property, or for any judgment against them for acts done
32 in good faith in compliance with this chapter: PROVIDED, That the
33 foregoing shall not be construed to result in indemnification in any
34 case of willful misconduct, gross negligence or bad faith on the part
35 of any agent of emergency management: PROVIDED, That should the United
36 States or any agency thereof, in accordance with any federal statute,
37 rule or regulation, provide for the payment of damages to property
38 and/or for death or injury as provided for in this section, then and in

1 that event there shall be no liability or obligation whatsoever upon
2 the part of the state of Washington for any such damage, death, or
3 injury for which the United States government assumes liability.

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

7 (a) The covered volunteer emergency worker;

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

10 (c) Any facility or their officers or employees;

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

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

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

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

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

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

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

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

26 (5) For purposes of this section:

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

32 (b) "Covered activity" means:

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

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

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

9 ~~((4))~~ (7) The provisions of this section shall not affect the
10 right of any person to receive benefits to which he would otherwise be
11 entitled under this chapter, or under the workers' compensation law, or
12 under any pension or retirement law, nor the right of any such person
13 to receive any benefits or compensation under any act of congress.

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

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