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**SUBSTITUTE SENATE BILL 5657**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Local Government (originally sponsored by Senators Miloscia and Rivers)

AN ACT Relating to the hosting of the homeless by religious organizations; amending RCW 36.01.290, 35.21.915, and 35A.21.360; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that residents in temporary settings hosted by religious organizations are a particularly vulnerable population that do not have access to the same services as citizens with more stable housing. Residents in these settings, including outdoor uses such as tent encampments, indoor overnight shelters, temporary small houses on site, and homeless-occupied vehicle resident safe parking, can be at increased risk of exploitation, theft, unsanitary living conditions, and physical harm. Therefore, it is the intent of the legislature that local municipalities have the discretion to protect the health and safety of residents in temporary settings that are hosted by religious organizations. Furthermore, the legislature finds and declares that hosted tent encampments, indoor overnight shelters, temporary small houses on site, and homeless-occupied vehicle resident safe parking serve as pathways for individuals experiencing homelessness to receive services and achieve financial stability, health, and permanent housing.

**Sec.**  RCW 36.01.290 and 2010 c 175 s 2 are each amended to read as follows:

(1) A religious organization may host ((~~temporary encampments for~~)) the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A county may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter, such as a tent encampment, indoor overnight shelter, temporary small house on site, or vehicle resident safe parking, for homeless persons on property owned or controlled by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; ((~~or~~))

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of ((~~the required~~)) permit applications. Actual costs must be reasonable and not include departmental overhead. Actual permit costs are reasonable if they do not cause an undue burden to the permit applicant;

(d) Specifically limits a religious organization's availability to host a rotating, established tent encampment on its property or property controlled by the religious organization to fewer than eight months during any calendar year. However, a county may enact an ordinance or regulation that requires a three-month separation of time between subsequent or established tent encampments at a particular site;

(e) Specifically limits a religious organization's tent encampment hosting term to fewer than four months unless consented to by that religious organization for a specific instance;

(f) Limits the number of simultaneous religious organization tent encampment hostings within the same municipality during any given period of time. Simultaneous and adjacent hostings of tent encampments by religious organizations may be limited if located within one thousand feet of other religious organizations hosting tent encampments; or

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance:

(i) No less than one space may be devoted to safe parking per ten on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities;

(iii) The host religious organization or host religious organization's managing agency must ensure that the county or local law enforcement agency has completed sex offender checks of all vehicle residents. The host religious organization or host religious organization's managing agency must inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with area standards.

(3)(a) A county must hold an informal public meeting before issuing a permit under this section. The meeting should be held in the geographic area most likely affected by permit approval, whenever possible. The meeting must allow individuals to provide testimony regarding the proposed activity. Any public comments received at the meeting must be recorded and responded to in the decision on whether or not to approve a permit application under this section.

(b) Any county issuing permits under this section must develop and implement a process to appeal a final permitting decision. An appeal made under this subsection must be considered by a hearing examiner at a public hearing in accordance with the procedures enacted by the county.

(c) Any hosting religious organization or managing agency must include a report of every concern or complaint received pursuant to subsection (4)(c) of this section, including a summary of steps taken to address or resolve those complaints or concerns, with each permit application submitted under this section. The report must include all concerns or complaints received during the twelve-month period immediately preceding the time of the application. A county reviewing permit applications under this section must consider the report in making its final decision.

(4)(a) A county must enact an ordinance or regulation or take any other action that requires a hosting religious organization and a distinct managing agency using the religious organization's property, owned or controlled by the religious organization, for hostings to include tent encampments, temporary small houses on site, indoor overnight shelters, or vehicle resident safe parking to enter into a written agreement to protect the public health and safety of both the residents of the particular hosting and the residents of the county.

(b) At a minimum, the agreement must include information regarding: The right of a resident in a tent encampment, vehicle resident safe parking, temporary small house on site, or indoor overnight shelter to seek public health and safety assistance, the resident's ability to access social services on site, and the resident's ability to directly interact with the hosting religious organization, including the ability to express any concerns regarding the managing agency to the religious organization; a written code of conduct agreed to by the managing agency, hosting religious organization, and all volunteers working with residents of the tent encampment, temporary small house on site, indoor overnight shelter, or vehicle resident safe parking; and the ability for the hosting religious organization to interact with residents of the tent encampment, indoor overnight shelter, temporary small house on site, or vehicle resident safe parking.

(c) The agreement must also include a process for residents of the municipality to communicate concerns directly with the hosting religious organization or managing agency regarding a tent encampment, vehicle resident safe parking, temporary small house on site, or indoor overnight shelter. The hosting religious organization or managing agency must contact each complainant within three days of receiving a complaint and make a good faith effort to work with the complainant to resolve the issue.

(5) Any hosting religious organization performing any hosting of a tent encampment, vehicle resident safe parking, temporary small house on site, or indoor overnight shelter, with a managing agency, must work with the county to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180. When the religious organization does not partner with a managing agency, the religious organization is encouraged to partner with a provider using the Washington homeless client managing information system. Any managing agency receiving any funding from local continuum of care programs must utilize the homeless client management information system. Temporary, overnight, extreme weather shelter provided in religious organization buildings does not need to meet this requirement.

(6) For the purposes of this section, the following definitions are used:

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a homeless tent encampment and a vehicle resident safe parking program. A "managing agency" may be the same entity as the sponsoring religious organization.

(b) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(c) "Safe parking" means a number of parking spaces on property owned or leased by a religious organization, which are part of a designated parking area that has been approved by a county.

((~~(4)~~)) (7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**Sec.**  RCW 35.21.915 and 2010 c 175 s 3 are each amended to read as follows:

(1) A religious organization may host ((~~temporary encampments for~~)) the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A city or town may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter, such as a tent encampment, indoor overnight shelter, temporary small house on site, or vehicle resident safe parking, for homeless persons on property owned or controlled by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; ((~~or~~))

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of ((~~the required~~)) permit applications. Actual costs must be reasonable and not include departmental overhead. Actual permit costs are reasonable if they do not cause an undue burden to the permit applicant;

(d) Specifically limits a religious organization's availability to host a rotating, established tent encampment on its property or property controlled by the religious organization to fewer than eight months during any calendar year. However, a city or town may enact an ordinance or regulation that requires a three-month separation of time between subsequent or established tent encampments at a particular site;

(e) Specifically limits a religious organization's tent encampment hosting term to fewer than four months unless consented to by that religious organization for a specific instance;

(f) Limits the number of simultaneous religious organization tent encampment hostings within the same municipality during any given period of time. Simultaneous and adjacent hostings of tent encampments by religious organizations may be limited if located within one thousand feet of other religious organizations hosting tent encampments; or

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance:

(i) No less than one space may be devoted to safe parking per ten on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities;

(iii) The host religious organization or host religious organization's managing agency must ensure that the local law enforcement agency has completed sex offender checks of all vehicle residents. The host religious organization or host religious organization's managing agency must inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with area standards.

(3)(a) A city or town must hold an informal public meeting before issuing a permit under this section. The meeting should be held in the geographic area most likely affected by permit approval, whenever possible. The meeting must allow individuals to provide testimony regarding the proposed activity. Any public comments received at the meeting must be recorded and responded to in the decision on whether or not to approve a permit application under this section.

(b) Any city or town issuing permits under this section must develop and implement a process to appeal a final permitting decision. An appeal made under this subsection must be considered by a hearing examiner at a public hearing in accordance with the procedures enacted by the city or town.

(c) Any hosting religious organization or managing agency must include a report of every concern or complaint received pursuant to subsection (4)(c) of this section, including a summary of steps taken to address or resolve those complaints or concerns, with each permit application submitted under this section. The report must include all concerns or complaints received during the twelve-month period immediately preceding the time of the application. A city or town reviewing permit applications under this section must consider the report in making its final decision.

(4)(a) A city or town must enact an ordinance or regulation or take any other action that requires a hosting religious organization and a distinct managing agency using the religious organization's property, owned or controlled by the religious organization, for hostings to include tent encampments, temporary small houses on site, indoor overnight shelters, or vehicle resident safe parking to enter into a written agreement to protect the public health and safety of both the residents of the particular hosting and the residents of the city or town.

(b) At a minimum, the agreement must include information regarding: The right of a resident in a tent encampment, vehicle resident safe parking, temporary small house on site, or indoor overnight shelter to seek public health and safety assistance, the resident's ability to access social services on site, and the resident's ability to directly interact with the hosting religious organization, including the ability to express any concerns regarding the managing agency to the religious organization; a written code of conduct agreed to by the managing agency, hosting religious organization, and all volunteers working with residents of the tent encampment, temporary small house on site, indoor overnight shelter, or vehicle resident safe parking; and the ability for the hosting religious organization to interact with residents of the tent encampment, indoor overnight shelter, temporary small house on site, or vehicle resident safe parking.

(c) The agreement must also include a process for residents of the municipality to communicate concerns directly with the hosting religious organization or managing agency regarding a tent encampment, vehicle resident safe parking, temporary small house on site, or indoor overnight shelter. The hosting religious organization or managing agency must contact each complainant within three days of receiving a complaint and make a good faith effort to work with the complainant to resolve the issue.

(5) Any hosting religious organization performing any hosting of a tent encampment, vehicle resident safe parking, temporary small house on site, or indoor overnight shelter, with a managing agency, must work with the city or town to utilize Washington's homeless client management information system, as provided for in RCW 43.185C.180. When the religious organization does not partner with a managing agency, the religious organization is encouraged to partner with a provider using the Washington homeless client managing information system. Any managing agency receiving any funding from local continuum of care programs must utilize the homeless client management information system. Temporary, overnight, extreme weather shelter provided in religious organization buildings does not need to meet this requirement.

(6) For the purposes of this section, the following definitions are used:

(a) "Managing agency" means an organization such as a religious organization or other organized entity that has the capacity to organize and manage a homeless tent encampment and a vehicle resident safe parking program. A "managing agency" may be the same entity as the sponsoring religious organization.

(b) "Religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(c) "Safe parking" means a number of parking spaces on property owned or leased by a religious organization, which are part of a designated parking area that has been approved by a city or town.

((~~(4)~~)) (7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**Sec.**  RCW 35A.21.360 and 2010 c 175 s 4 are each amended to read as follows:

(1) A religious organization may host ((~~temporary encampments for~~)) the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A code city may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter, such as a tent encampment, indoor overnight shelter, temporary small house on site, or vehicle resident safe parking, for homeless persons on property owned or controlled by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; ((~~or~~))

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of ((~~the required~~)) permit applications. Actual costs must be reasonable and not include departmental overhead. Actual permit costs are reasonable if they do not cause an undue burden to the permit applicant;

(d) Specifically limits a religious organization's availability to host a rotating, established tent encampment on its property or property controlled by the religious organization to fewer than eight months during any calendar year. However, a code city may enact an ordinance or regulation that requires a three-month separation of time between subsequent or established tent encampments at a particular site;

(e) Specifically limits a religious organization's tent encampment hosting term to fewer than four months unless consented to by that religious organization for a specific instance;

(f) Limits the number of simultaneous religious organization tent encampment hostings within the same municipality during any given period of time. Simultaneous and adjacent hostings of tent encampments by religious organizations may be limited if located within one thousand feet of other religious organizations hosting tent encampments; or

(g) Limits a religious organization's availability to host safe parking efforts at its on-site parking lot, including limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations that are in accord with the following criteria that would govern if enacted by local ordinance:

(i) No less than one space may be devoted to safe parking per ten on-site parking spaces;

(ii) Restroom access must be provided either within the buildings on the property or through use of portable facilities;

(iii) The host religious organization or host religious organization's managing agency must ensure that the local law enforcement agency has completed sex offender checks of all vehicle residents. The host religious organization or host religious organization's managing agency must inform vehicle residents how to comply with laws regarding the legal status of vehicles and drivers, and provide a written code of conduct consistent with area standards.

(3)(a) A code city must hold an informal public meeting before issuing a permit under this section. The meeting should be held in the geographic area most likely affected by permit approval, whenever possible. The meeting must allow individuals to provide testimony regarding the proposed activity. Any public comments received at the meeting must be recorded and responded to in the decision on whether or to not approve a permit application under this section.

(b) Any code city issuing permits under this section must develop and implement a process to appeal a final permitting decision. An appeal made under this subsection must be considered by a hearing examiner at a public hearing in accordance with the procedures enacted by the code city.

(c) Any hosting religious organization or managing agency must include a report of every concern or complaint received pursuant to subsection (4)(c) of this section, including a summary of steps taken to address or resolve those complaints or concerns, with each permit application submitted under this section. The report must include all concerns or complaints received during the twelve-month period immediately preceding the time of the application. A code city reviewing permit applications under this section must consider the report in making its final decision.

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(b) At a minimum, the agreement must include information regarding: The right of a resident in a tent encampment, vehicle resident safe parking, temporary small house on site, or indoor overnight shelter to seek public health and safety assistance, the resident's ability to access social services on site, and the resident's ability to directly interact with the hosting religious organization, including the ability to express any concerns regarding the managing agency to the religious organization; a written code of conduct agreed to by the managing agency, hosting religious organization, and all volunteers working with residents of the tent encampment, temporary small house on site, indoor overnight shelter, or vehicle resident safe parking; and the ability for the hosting religious organization to interact with residents of the tent encampment, indoor overnight shelter, temporary small house on site, or vehicle resident safe parking.

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(c) "Safe parking" means a number of parking spaces on property owned or leased by a religious organization, which are part of a designated parking area that has been approved by a code city.

((~~(4)~~)) (7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**--- END ---**