
SENATE BILL 5186

State of Washington

67th Legislature

2021 Regular Session

By Senator Fortunato

Read first time 01/13/21. Referred to Committee on State Government & Elections.

1 AN ACT Relating to ensuring that no gubernatorial emergency order
2 may infringe on constitutional rights; and amending RCW 43.06.220.

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

4 **Sec. 1.** RCW 43.06.220 and 2019 c 472 s 2 are each amended to
5 read as follows:

6 (1) 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 prohibiting:

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

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

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

18 (d) The transporting, possessing or using of gasoline, kerosene,
19 or combustible, flammable, or explosive liquids or materials in a
20 glass or uncapped container of any kind except in connection with the

1 normal operation of motor vehicles, normal home use or legitimate
2 commercial use;

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

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

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

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

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

16 (a) Liability for participation in interlocal agreements;

17 (b) Inspection fees owed to the department of labor and
18 industries;

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

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

22 (e) Application of tax due dates and penalties relating to
23 collection of taxes;

24 (f) Permits for industrial, business, or medical uses of alcohol;
25 and

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

1 impacted local governments when issuing orders under this subsection
2 (2)(g).

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

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

19 (5) No order under this section may infringe in any way on the
20 rights of the people guaranteed under the Constitution of the United
21 States of America or the Constitution of the state of Washington.

22 (6) Any person willfully violating any provision of an order
23 issued by the governor under this section is guilty of a gross
24 misdemeanor.

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