

WA HB 2351

Protecting emergency responders and emergency response operations in Washington

Brief summary

Existing state law prohibits the obstruction of a law enforcement officer from discharging their duties. HB 2351 removes the term “law enforcement officer” and applies this prohibition to a new term, “emergency responder.” The definition of “emergency responder” is detailed at length. Obstructing an emergency responder is a misdemeanor, but activity undertaken by a law enforcement officer for an authorized and lawful purpose is exempted.

The bill prohibits cities, towns and counties from using resources to aid federal law enforcement efforts based solely on race, religion, immigration or citizenship status, or national or ethnic origin.

The bill authorizes the designation of emergency operation zones by the governor or the executive of a political subdivision and adds requirements for law enforcement officers targeting emergency responders within the zones – including displaying physical identification and providing notice to incident commanders.

The bill requires violations occurring within emergency operation zones to be reported to the state attorney general and provides for further reporting by that office.

FULL SUMMARY

Intent

The legislature finds that undue interference with emergency responders working to mitigate an ongoing emergency or disaster can obstruct emergency response operations and endanger the lives and property of the residents of Washington. It is the intent of the legislature to preserve the integrity of emergency response operations, protect the rights and safety of all emergency responders, and to ensure due process of law throughout the state.

1. Replaces “law enforcement officer with “emergency responder” and defines “emergency responder”

Existing law prohibits persons from obstructing a law enforcement officer in the discharge of his or her official powers or duties. HB 2351 changes the term “law enforcement officer” to “an emergency responder” provided that the emergency responder:

- Is in uniform
- Announces that he or she is an emergency responder or a reasonable person would understand based on the totality of the circumstances that he or she is an emergency responder

Existing law defines “law enforcement officer” as a state or federal peace officer or other public officer responsible for enforcement of fire, building, zoning, and life and safety codes. HB 2351 applies this definition for the term “emergency responder” and adds the following to the definition of “emergency responder”:

- Any employee of a government agency or private corporation providing firefighting-related services who is responding to an active fire or rescue incident.
- Any employee of a government agency or private corporation providing emergency medical transportation, aid, or services who is responding to an active medical emergency incident.

- Any person who is registered with a local emergency management organization, any federally recognized Indian tribe, or a state or local political subdivision which is called upon to perform emergency management activities. (from RCW 38.52.10)
- A person with skills, qualifications, training, knowledge, and experience to respond in the case of a declared emergency. (from RCW 24.60.010)

Existing law says that obstructing a law enforcement officer is a gross misdemeanor and HB 2351 applies this penalty to the term “emergency responder” instead.

This section does not prohibit:

- Activity protected under the U.S. or Washington State constitutions
- Activity undertaken by a law enforcement officer for an authorized and lawful purpose.

2. Prohibits cities, towns and counties from using resources to aid federal law enforcement efforts based solely on race, religion, immigration or citizenship status, or national or ethnic origin

HB 2351 adds the following language to the RCW titles on Cities and Towns (35) and Counties (36):

- Prohibits cities and towns [and counties], including law enforcement, from using funds, facilities, equipment, or personal to investigate, enforce, or assist in the investigation or enforcement of a federal registration or surveillance program.
- Prohibits cities and towns [and counties] from using resources to target Washington residents, or those working in Washington, solely on the basis of race, religion, immigration or citizenship status, or national or ethnic origin.
- Requires all agencies of cities and towns to review their policies and make changes needed to ensure that:
 - Information collected from individuals is limited to the following (and not disclosed except for the following):
 - Required to comply with state or federal law
 - In response to a court order
 - Necessary to perform agency duties, as permitted by law
 - Required to comply with policies or other requirements necessary to maintain funding
 - In the form of aggregated data, including census data
 - Agency employees do not condition services or require information or proof regarding a person’s immigration status, citizenship status, or place of birth.
 - Public services are available to all Washington residents without regard to immigration or citizenship status.
- Changes must be made “expeditiously” and final policies must be published.
- Implementation of these provisions must begin by Jan. 1, 2027, and full compliance must be demonstrated by Jan. 1, 2028.

3. Authorizes emergency operation zones with requirements for law enforcement officers targeting emergency responders

Adds language to the RCW Chapter on Emergency Management (RCW 38.52):

- Authorizes the governor and the executive authority of each political subdivision to designate emergency operation zones where ongoing emergency or disaster activity is occurring. The emergency operation zone can include: affected and at-risk areas; areas where emergency responders are staging or working; and reasonable buffer zones.

- The authority shall establish a duration for the zone's existence of not more than 30 days; the designation may be modified or renewed as needed.
- When establishing or modifying an emergency operation zone, the designating authority shall publish notice of the zone's existence, orders, and duration on its website and transmit a copy to all local, state and federal law enforcement agencies that could operate within the emergency operation zone. Notice shall include the statement: "Interference with emergency responders within an emergency operation zone is restricted by state law."
- Any law enforcement officer who enters an emergency operation zone to target an emergency responder for the purpose of enforcing a local, state, or federal law against the emergency responder shall:
 - Visibly display identification, including agency name and individual ID number.
 - Disclose to the incident commander, emergency management authority, or designated administrator the nature and scope of the intended activities within the emergency operation zone – disclosure must be made before the officer enters the zone.
 - Obtain a valid judicial warrant before undertaking activity and provide a copy of the warrant upon request to the incident command team.
 - Refrain from disrupting emergency operations in the emergency operation zone or interfering with emergency responders in the zone unless acting pursuant to a judicial warrant.
- These requirements do not apply to:
 - Any law enforcement officer outside an emergency operation zone.
 - Any law enforcement officer in an emergency operation zone who does not intend to target an emergency responder.
 - Any law enforcement officer who is lawfully operating under a previously established assumed identity for the purpose of investigating a suspected violent offence by an emergency responder.
 - Any law enforcement officer who cannot reasonably comply with the requirements of this section as a result of an ongoing search for an emergency responder who the officer has probable cause to believe has committed a violent offence or is about to.

4. Reporting

A violation of this section is not a criminal or civil offense but must be reported to the Washington attorney general. The attorney general may:

- Provide notification to the governor and any affected political subdivisions, the attorney general of the United States, the U.S. Dept. of Justice Office of the Inspector General, and any member of the US. Congress or Washington Legislature.
- Publish a report on the attorney general's website
- Provide notification of the violation to affected individuals and organizations, including legal advocacy organizations.

If the violation disrupts or interferes with an emergency response or resulted in the detention or arrest of an emergency responder, the attorney general must notify the U.S. Attorney General and the U.S. Dept. of Justice Office of the Inspector General.