JAY INSLEE
Governor

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**PROCLAMATION BY THE GOVERNOR**
**AMENDING PROCLAMATION 20-05**

**20-46**
**High-Risk Employees – Workers' Rights**

**WHEREAS**, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout Washington State as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in the state of Washington; and

**WHEREAS,** as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued amendatory Proclamations 20-06 through 20-45, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

**WHEREAS,** the COVID-19 disease, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, has broadly spread throughout the state of Washington, significantly increasing the threat of serious associated health risks statewide; and

**WHEREAS,** the Centers for Disease Control and Prevention reports that groups at higher risk of severe illness or death from COVID-19 are those over 65 years of age, and people of any age who have certain chronic underlying health conditions; and

**WHEREAS,** the threat of severe illness and death from COVID-19 to Washington State's public and private sector workers who are in these higher-risk groups is recognized, and action must be taken to protect them from working conditions that require them to be placed in situations where they may be exposed to infection by the virus that causes the COVID-19 disease; and

**WHEREAS**, during this critical period of virus spread throughout our state, public and private sector workers in these high-risk groups must have access to accommodations to prevent greater risk of contracting COVID-19, and these decisions cannot be left solely to the employer; and

**WHEREAS,** to protect our public and private sector workers in these high-risk categories from the significant life, health and safety risks of the COVID-19 disease, it is necessary that employers seek any and all options for alternative work arrangements and that these workers are protected from job displacement, loss of employment benefits, and any requirement that they use personal accrued leave before applying for any available unemployment benefits; and

**WHEREAS,** the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people, as well as the state economy, and remain a public disaster affecting life, health, property or the public peace; and

**WHEREAS**, the Washington State Department of Health continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

**WHEREAS**, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues to coordinate resources across state government to support the Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues to coordinate with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people.

**NOW, THEREFORE**, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim: that a State of Emergency continues to exist in all counties of Washington State; that Proclamation 20-05 and all amendments thereto remain in effect; and, that Proclamation 20-05 is amended, through the exercise of my prohibitory powers under RCW 43.06.220(1)(h), to prevent all employers, public or private, from failing to provide accommodation to high-risk workers, as defined by the Centers for Disease Control and Prevention, that protects them from risk of exposure to the COVID-19 disease on the job. If an employer determines that alternative work arrangements are not feasible, the employer is prohibited from failing to permit an employee to utilize all available accrued leave options free from risk of adverse employment action.

I again direct that the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented throughout state government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the *Washington State Comprehensive Emergency Management Plan* and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic.

I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Department of Health, the Washington State Military Department Emergency Management Division, and other agencies

to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

**FURTHERMORE,** based on the above situation and under the provisions of RCW 43.06.220(1)(h), to help preserve and maintain life, health, property or the public peace, I hereby prohibit all public and private employers in Washington State from taking any action that is inconsistent with the following practices related to high-risk employees, as that term is described or defined in guidance issued by the Centers for Disease Control and Prevention. This prohibition shall remain in effect until 11:59 PM on June 12, 2020, unless extended beyond that date:

1. Employers are prohibited from failing to utilize all available options for alternative work assignments to protect high-risk employees, if requested, from exposure to the COVID-19 disease, including but not limited to telework, alternative or remote work locations, reassignment, and social distancing measures; and

2. Employers are prohibited from failing to permit any high-risk employee in a situation where an alternative work arrangement is not feasible to use any available employer-granted accrued leave or unemployment insurance in any sequence at the discretion of the employee; and

3. In the event the employee's paid time off exhausts during the period of leave, employers are prohibited from failing to fully maintain all employer-related health insurance benefits until the employee is deemed eligible to return to work; and

4. Employers are prohibited from taking adverse employment action against an employee for exercising their rights under this Proclamation that would result in loss of the employee's current employment position by permanent replacement.

**FURTHERMORE,** based on the above situation and under the provisions of RCW 43.06.220(1)(h), to help preserve and maintain life, health, property or the public peace and to support implementation of the above prohibited activities by employers, I also hereby prohibit all public and private employers in Washington State and labor unions representing employees in Washington State from applying or enforcing any employment contract provisions that contradict or otherwise interfere with the above prohibitions and the intent of this Proclamation as described herein until 11:59 PM on June 12, 2020, unless extended beyond that date.

**To the greatest extent possible**, all prohibitions in this Proclamation shall be construed to protect the employee from loss of their position, loss of employment benefits, and retaliation for decisions made regarding whether and how to work for their employer pursuant to this Proclamation.

**This Proclamation shall not be construed** to prohibit employers from hiring temporary employees so long as it does not negatively impact the permanent employee's right under this Proclamation to return to their employment position without any negative ramifications to their employment status by the employer.

**This Proclamation also shall not be construed** to prohibit an employer from requiring an employee who does not report to work under this Proclamation to give up to five days' advance notice to the employer of any decision to report to work or return to work under this Proclamation.

**This Proclamation also shall not be construed** to prohibit an employer from taking employment action when no work reasonably exists, such as in a circumstance of a reduction in force, for a high-risk employee during this Proclamation. However, in the case that no work exists, employers shall not take action that may adversely impact an employee's eligibility for unemployment benefits.

Violators of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5).

Signed and sealed with the official seal of the state of Washington on this 13th day of April, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

/s/
Jay Inslee, Governor

BY THE GOVERNOR:

/s/
Secretary of State