

**HB 1574 - H AMD 237**

By Representative Macri

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 69.50.315 and 2015 c 205 s 4 are each amended to  
4 read as follows:

5 (1) ((A)) Notwithstanding any other provision of law, a person  
6 acting in good faith who seeks medical assistance for someone  
7 experiencing a drug-related overdose (~~(shall not be charged or~~  
8 ~~prosecuted for possession of a controlled substance pursuant to RCW~~  
9 ~~69.50.4013, or penalized under RCW 69.50.4014, if the evidence for~~  
10 ~~the charge of possession of a controlled substance was obtained as a~~  
11 ~~result of the person seeking medical assistance.~~

12 ~~(2) A person))~~ or who experiences a drug-related overdose and is  
13 in need of medical assistance (~~(shall))~~ may not be arrested, charged  
14 (~~(or)),~~ prosecuted, or convicted for possession or use of a  
15 controlled substance pursuant to RCW 69.50.4013, or penalized under  
16 RCW 69.50.4014, if the evidence for the charge of possession or use  
17 of a controlled substance was obtained as a result of the overdose  
18 and the need for medical assistance.

19 (2)(a) Notwithstanding any other provision of law, a person  
20 acting in good faith who seeks medical assistance for someone  
21 experiencing a drug-related overdose or who experiences a drug-  
22 related overdose and is in need of medical assistance may not:

23 (i) Have their property subject to civil forfeiture; or

24 (ii) Be penalized for:

25 (A) Violation of a restraining order, no contact order, or  
26 protection order;

27 (B) Violation of probation or parole; or

28 (C) Failing to appear for an existing nonviolent, nonsexual  
29 charge.

30 (b) The protections in (a) of this subsection only apply if the  
31 property that would be subject to civil forfeiture or the evidence

1 for the possible charge of such a violation was obtained as a result  
2 of the overdose and the need for medical assistance.

3 (3) Nothing in this section prohibits a peace officer from  
4 lawfully detaining a person without making an arrest.

5 (4) The protection in this section from prosecution for  
6 possession crimes under RCW 69.50.4013 shall not be grounds for  
7 suppression of evidence in other criminal charges, except as provided  
8 in subsection (2) of this section.

9 **Sec. 2.** RCW 10.31.100 and 2023 c 462 s 702 are each amended to  
10 read as follows:

11 A police officer having probable cause to believe that a person  
12 has committed or is committing a felony shall have the authority to  
13 arrest the person without a warrant. A police officer may arrest a  
14 person without a warrant for committing a misdemeanor or gross  
15 misdemeanor only when the offense is committed in the presence of an  
16 officer, except as provided in subsections (1) through (11) of this  
17 section.

18 (1) Any police officer having probable cause to believe that a  
19 person has committed or is committing a misdemeanor or gross  
20 misdemeanor, involving physical harm or threats of harm to any person  
21 or property or the unlawful taking of property or involving the use  
22 or possession of cannabis, or involving the acquisition, possession,  
23 or consumption of alcohol by a person under the age of twenty-one  
24 years under RCW 66.44.270, or involving criminal trespass under RCW  
25 9A.52.070 or 9A.52.080, shall have the authority to arrest the  
26 person.

27 (2) ((A)) Except as provided in RCW 69.50.315, a police officer  
28 shall arrest and take into custody, pending release on bail, personal  
29 recognizance, or court order, a person without a warrant when the  
30 officer has probable cause to believe that:

31 (a) A domestic violence protection order, a sexual assault  
32 protection order, a stalking protection order, or a vulnerable adult  
33 protection order has been issued, of which the person has knowledge,  
34 under chapter 7.105 RCW, or an order has been issued, of which the  
35 person has knowledge, under RCW 26.44.063, or chapter 9A.40, 9A.46,  
36 9A.88, 10.99, 26.09, 26.26A, 26.26B, or 74.34 RCW, or any of the  
37 former chapters 7.90, 7.92, and 26.50 RCW, restraining the person and  
38 the person has violated the terms of the order restraining the person  
39 from acts or threats of violence, or restraining the person from

1 going onto the grounds of, or entering, a residence, workplace,  
2 school, or day care, or prohibiting the person from knowingly coming  
3 within, or knowingly remaining within, a specified distance of a  
4 location, a protected party's person, or a protected party's vehicle,  
5 or requiring the person to submit to electronic monitoring, or, in  
6 the case of an order issued under RCW 26.44.063, imposing any other  
7 restrictions or conditions upon the person;

8 (b) An extreme risk protection order has been issued against the  
9 person under chapter 7.105 RCW or former RCW 7.94.040, the person has  
10 knowledge of the order, and the person has violated the terms of the  
11 order prohibiting the person from having in the person's custody or  
12 control, purchasing, possessing, accessing, or receiving a firearm or  
13 concealed pistol license;

14 (c) A foreign protection order, as defined in RCW 26.52.010, or a  
15 Canadian domestic violence protection order, as defined in RCW  
16 26.55.010, has been issued of which the person under restraint has  
17 knowledge and the person under restraint has violated a provision of  
18 the foreign protection order or the Canadian domestic violence  
19 protection order prohibiting the person under restraint from  
20 contacting or communicating with another person, or excluding the  
21 person under restraint from a residence, workplace, school, or day  
22 care, or prohibiting the person from knowingly coming within, or  
23 knowingly remaining within, a specified distance of a location, a  
24 protected party's person, or a protected party's vehicle, or a  
25 violation of any provision for which the foreign protection order or  
26 the Canadian domestic violence protection order specifically  
27 indicates that a violation will be a crime; or

28 (d) The person is eighteen years or older and within the  
29 preceding four hours has assaulted a family or household member or  
30 intimate partner as defined in RCW 10.99.020 and the officer  
31 believes: (i) A felonious assault has occurred; (ii) an assault has  
32 occurred which has resulted in bodily injury to the victim, whether  
33 the injury is observable by the responding officer or not; or (iii)  
34 that any physical action has occurred which was intended to cause  
35 another person reasonably to fear imminent serious bodily injury or  
36 death. Bodily injury means physical pain, illness, or an impairment  
37 of physical condition. When the officer has probable cause to believe  
38 that family or household members or intimate partners have assaulted  
39 each other, the officer is not required to arrest both persons. The  
40 officer shall arrest the person whom the officer believes to be the

1 primary aggressor. In making this determination, the officer shall  
2 make every reasonable effort to consider: (A) The intent to protect  
3 victims of domestic violence under RCW 10.99.010; (B) the comparative  
4 extent of injuries inflicted or serious threats creating fear of  
5 physical injury; and (C) the history of domestic violence of each  
6 person involved, including whether the conduct was part of an ongoing  
7 pattern of abuse.

8 (3) Any police officer having probable cause to believe that a  
9 person has committed or is committing a violation of any of the  
10 following traffic laws shall have the authority to arrest the person:

11 (a) RCW 46.52.010, relating to duty on striking an unattended car  
12 or other property;

13 (b) RCW 46.52.020, relating to duty in case of injury to, or  
14 death of, a person or damage to an attended vehicle;

15 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or  
16 racing of vehicles;

17 (d) RCW 46.61.502 or 46.61.504, relating to persons under the  
18 influence of intoxicating liquor or drugs;

19 (e) RCW 46.61.503 or 46.25.110, relating to persons having  
20 alcohol or THC in their system;

21 (f) RCW 46.20.342, relating to driving a motor vehicle while  
22 operator's license is suspended or revoked;

23 (g) RCW 46.61.5249, relating to operating a motor vehicle in a  
24 negligent manner.

25 (4) A law enforcement officer investigating at the scene of a  
26 motor vehicle accident may arrest the driver of a motor vehicle  
27 involved in the accident if the officer has probable cause to believe  
28 that the driver has committed, in connection with the accident, a  
29 violation of any traffic law or regulation.

30 (5) (a) A law enforcement officer investigating at the scene of a  
31 motor vessel accident may arrest the operator of a motor vessel  
32 involved in the accident if the officer has probable cause to believe  
33 that the operator has committed, in connection with the accident, a  
34 criminal violation of chapter 79A.60 RCW.

35 (b) A law enforcement officer investigating at the scene of a  
36 motor vessel accident may issue a citation for an infraction to the  
37 operator of a motor vessel involved in the accident if the officer  
38 has probable cause to believe that the operator has committed, in  
39 connection with the accident, a violation of any boating safety law  
40 of chapter 79A.60 RCW.

1 (6) Any police officer having probable cause to believe that a  
2 person has committed or is committing a violation of RCW 79A.60.040  
3 shall have the authority to arrest the person.

4 (7) An officer may act upon the request of a law enforcement  
5 officer, in whose presence a traffic infraction was committed, to  
6 stop, detain, arrest, or issue a notice of traffic infraction to the  
7 driver who is believed to have committed the infraction. The request  
8 by the witnessing officer shall give an officer the authority to take  
9 appropriate action under the laws of the state of Washington.

10 (8) Any police officer having probable cause to believe that a  
11 person has committed or is committing any act of indecent exposure,  
12 as defined in RCW 9A.88.010, may arrest the person.

13 (9) A police officer may arrest and take into custody, pending  
14 release on bail, personal recognizance, or court order, a person  
15 without a warrant when the officer has probable cause to believe that  
16 an antiharassment protection order has been issued of which the  
17 person has knowledge under chapter 7.105 RCW or former chapter 10.14  
18 RCW and the person has violated the terms of that order.

19 (10) Any police officer having probable cause to believe that a  
20 person has, within twenty-four hours of the alleged violation,  
21 committed a violation of RCW 9A.50.020 may arrest such person.

22 (11) A police officer having probable cause to believe that a  
23 person illegally possesses or illegally has possessed a firearm or  
24 other dangerous weapon on private or public elementary or secondary  
25 school premises shall have the authority to arrest the person.

26 For purposes of this subsection, the term "firearm" has the  
27 meaning defined in RCW 9.41.010 and the term "dangerous weapon" has  
28 the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

29 (12) A law enforcement officer having probable cause to believe  
30 that a person has committed a violation under RCW 77.15.160(5) may  
31 issue a citation for an infraction to the person in connection with  
32 the violation.

33 (13) A law enforcement officer having probable cause to believe  
34 that a person has committed a criminal violation under RCW 77.15.809  
35 or 77.15.811 may arrest the person in connection with the violation.

36 (14) Except as specifically provided in subsections (2), (3),  
37 (4), and (7) of this section, nothing in this section extends or  
38 otherwise affects the powers of arrest prescribed in Title 46 RCW.

1 (15) No police officer may be held criminally or civilly liable  
2 for making an arrest pursuant to subsection (2) or (9) of this  
3 section if the police officer acts in good faith and without malice.

4 (16)(a) Except as provided in (b) of this subsection, a police  
5 officer shall arrest and keep in custody, until release by a judicial  
6 officer on bail, personal recognizance, or court order, a person  
7 without a warrant when the officer has probable cause to believe that  
8 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent  
9 local ordinance and the police officer: (i) Has knowledge that the  
10 person has a prior offense as defined in RCW 46.61.5055 within ten  
11 years; or (ii) has knowledge, based on a review of the information  
12 available to the officer at the time of arrest, that the person is  
13 charged with or is awaiting arraignment for an offense that would  
14 qualify as a prior offense as defined in RCW 46.61.5055 if it were a  
15 conviction.

16 (b) A police officer is not required to keep in custody a person  
17 under (a) of this subsection if the person requires immediate medical  
18 attention and is admitted to a hospital.

19 **Sec. 3.** RCW 69.50.4121 and 2023 sp.s. c 1 s 7 are each amended  
20 to read as follows:

21 (1) Every person who sells or permits to be sold to any person  
22 any drug paraphernalia in any form commits a class I civil infraction  
23 under chapter 7.80 RCW. For purposes of this subsection, "drug  
24 paraphernalia" means all equipment, products, and materials of any  
25 kind which are used, intended for use, or designed for use in  
26 planting, propagating, cultivating, growing, harvesting,  
27 manufacturing, compounding, converting, producing, processing,  
28 preparing, packaging, repackaging, storing, containing, concealing,  
29 injecting, ingesting, inhaling, or otherwise introducing into the  
30 human body a controlled substance other than cannabis. Drug  
31 paraphernalia includes, but is not limited to objects used, intended  
32 for use, or designed for use in ingesting, inhaling, or otherwise  
33 introducing cocaine into the human body, such as:

34 (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic  
35 pipes with or without screens, permanent screens, hashish heads, or  
36 punctured metal bowls;

37 (b) Water pipes;

38 (c) Carburetion tubes and devices;

39 (d) Smoking and carburetion masks;

- 1 (e) Miniature cocaine spoons and cocaine vials;
- 2 (f) Chamber pipes;
- 3 (g) Carburetor pipes;
- 4 (h) Electric pipes;
- 5 (i) Air-driven pipes; and
- 6 (j) Ice pipes or chillers.

7 (2) It shall be no defense to a prosecution for a violation of  
8 this section that the person acted, or was believed by the defendant  
9 to act, as agent or representative of another.

10 (3) Nothing in subsection (1) of this section prohibits  
11 distribution or use of public health supplies including, but not  
12 limited to, syringe equipment, smoking equipment, or drug testing  
13 equipment, through public health programs, community-based HIV  
14 prevention programs, outreach, shelter((7)) and housing programs, and  
15 health care facilities, including hospitals and pharmacies. Public  
16 health and syringe service program clients and staff taking samples  
17 of substances and using drug testing equipment for the purpose of  
18 analyzing the composition of the substances or detecting the presence  
19 of certain substances are acting legally and are exempt from arrest  
20 and prosecution under RCW 69.50.4011(1) (b) or (c), 69.50.4013,  
21 69.50.4014, or 69.41.030(2) (b) or (c).

22 **Sec. 4.** RCW 69.50.612 and 2023 sp.s. c 1 s 8 are each amended to  
23 read as follows:

24 ((1)) The state of Washington hereby fully occupies and  
25 preempts the entire field of drug paraphernalia regulation within the  
26 boundaries of the state including regulation of the use, selling,  
27 giving, delivery, and possession of drug paraphernalia((, except as  
28 ~~provided in subsection (2) of this section~~)). Cities, towns, and  
29 counties or other municipalities may enact only those laws and  
30 ordinances relating to drug paraphernalia that are specifically  
31 authorized by state law and are consistent with this chapter. Such  
32 local ordinances must have the same penalty as provided for by state  
33 law. Local laws and ordinances that are inconsistent with, more  
34 restrictive than, or exceed the requirements of state law may not be  
35 enacted and are preempted and repealed, regardless of the nature of  
36 the code, charter, or home rule status of such city, town, county, or  
37 municipality.

38 ((2) Nothing in this chapter shall be construed to prohibit  
39 cities or counties from enacting laws or ordinances relating to the

1 ~~establishment or regulation of harm reduction services concerning~~  
2 ~~drug paraphernalia.) )"~~

3 Correct the title.

EFFECT: • Clarifies that the protections from arrest provided for persons seeking or needing medical assistance for a drug-related overdose are exceptions to the provisions that require arrest for specified assault that involves domestic violence and violation of specified protection orders, no contact orders, and restraining orders.

• Removes the prohibition on detaining a person seeking or needing medical assistance for a drug-related overdose, and adds language specifying that a peace officer is not prohibited from lawfully detaining such a person without making an arrest.

• Clarifies that the protections afforded persons seeking or needing medical assistance for a drug-related overdose from having their property subject to civil forfeiture or being penalized for specified violations only apply if the property that would be subject to civil forfeiture or the evidence for the possible charge of such a violation was obtained as a result of the overdose and the need for medical assistance.

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