
HOUSE BILL 2083

State of Washington 63rd Legislature 2013 2nd Special Session

By Representatives Klippert, Goodman, Smith, Morrell, Holy, Moscoso, Haler, Hurst, Manweller, Van De Wege, Fagan, Kochmar, Zeiger, Wilcox, Alexander, Magendanz, Warnick, Kretz, and Hargrove

Read first time 06/28/13. Referred to Committee on Public Safety.

1 AN ACT Relating to probable cause for persons in violation of an
2 impaired driving offense; and reenacting and amending RCW 10.31.100.

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

4 **Sec. 1.** RCW 10.31.100 and 2013 c 278 s 4 and 2013 c 84 s 32 are
5 each reenacted and amended to read as follows:

6 A police officer having probable cause to believe that a person has
7 committed or is committing a felony shall have the authority to arrest
8 the person without a warrant. A police officer may arrest a person
9 without a warrant for committing a misdemeanor or gross misdemeanor
10 only when the offense is committed in the presence of the officer,
11 except as provided in subsections (1) through (11) of this section.

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

1 (2) A police officer shall arrest and take into custody, pending
2 release on bail, personal recognizance, or court order, a person
3 without a warrant when the officer has probable cause to believe that:

4 (a) An order has been issued of which the person has knowledge
5 under RCW 26.44.063, or chapter 7.-- (the new chapter created in
6 section 33, chapter 84, Laws of 2013), 7.90, 9A.46, 10.99, 26.09,
7 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person
8 has violated the terms of the order restraining the person from acts or
9 threats of violence, or restraining the person from going onto the
10 grounds of or entering a residence, workplace, school, or day care, or
11 prohibiting the person from knowingly coming within, or knowingly
12 remaining within, a specified distance of a location or, in the case of
13 an order issued under RCW 26.44.063, imposing any other restrictions or
14 conditions upon the person; or

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

25 (c) The person is sixteen years or older and within the preceding
26 four hours has assaulted a family or household member as defined in RCW
27 10.99.020 and the officer believes: (i) A felonious assault has
28 occurred; (ii) an assault has occurred which has resulted in bodily
29 injury to the victim, whether the injury is observable by the
30 responding officer or not; or (iii) that any physical action has
31 occurred which was intended to cause another person reasonably to fear
32 imminent serious bodily injury or death. Bodily injury means physical
33 pain, illness, or an impairment of physical condition. When the
34 officer has probable cause to believe that family or household members
35 have assaulted each other, the officer is not required to arrest both
36 persons. The officer shall arrest the person whom the officer believes
37 to be the primary physical aggressor. In making this determination,
38 the officer shall make every reasonable effort to consider: (i) The

1 intent to protect victims of domestic violence under RCW 10.99.010;
2 (ii) the comparative extent of injuries inflicted or serious threats
3 creating fear of physical injury; and (iii) the history of domestic
4 violence of each person involved, including whether the conduct was
5 part of an ongoing pattern of abuse; or

6 (d) The person has violated RCW 46.61.502 or 46.61.504 or an
7 equivalent local ordinance. The person shall be arrested, booked into
8 jail (which includes being fingerprinted and photographed), and must
9 remain in custody for no less than six hours.

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

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

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

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

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

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

23 (f) 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 motor
26 vehicle accident may arrest the driver of a motor vehicle involved in
27 the accident if the officer has probable cause to believe that the
28 driver has committed in connection with the accident a violation of any
29 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 motor
36 vessel accident may issue a citation for an infraction to the operator
37 of a motor vessel involved in the accident if the officer has probable

1 cause to believe that the operator has committed, in connection with
2 the accident, a violation of any boating safety law of chapter 79A.60
3 RCW.

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

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

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

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

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

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

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

31 (12) Except as specifically provided in subsections (2), (3), (4),
32 and (7) of this section, nothing in this section extends or otherwise
33 affects the powers of arrest prescribed in Title 46 RCW.

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

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