

Regular Session, 2014

SENATE BILL NO. 422

BY SENATORS BROOME AND DORSEY-COLOMB

LIABILITY. Provides immunity for rendering assistance in medical emergencies involving alcohol consumption or drug overdose. (8/1/14)

1 AN ACT

2 To enact R.S. 14:403.9 through 403.11, relative to immunity for certain actions; to provide
3 immunity from prosecution for emergency assistance involving alcohol consumption
4 and drug overdoses; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:403.9 through 403.11 are hereby enacted to read as follows:

7 **§403.9. Alcohol consumption; emergency assistance and cooperation; immunity**

8 **A. A peace officer shall not take a person into custody based solely on**
9 **the commission of an offense involving alcohol described in Subsection B of this**
10 **Section if the peace officer, after making a reasonable determination and**
11 **considering the facts and surrounding circumstances, reasonably believes that**
12 **all of the following apply:**

13 **(1) The law enforcement officer has contact with the person because the**
14 **person requested emergency medical assistance for an individual who**
15 **reasonably appeared to be in need of medical assistance due to alcohol**
16 **consumption and the person did not illegally provide alcohol to the individual.**

17 **(2) The person:**

1 **(a) Provided the person's full name and any other relevant information**
2 **requested by the peace officer.**

3 **(b) Remained at the scene with the individual who reasonably appeared**
4 **to be in need of medical assistance due to alcohol consumption until emergency**
5 **medical assistance arrived.**

6 **(c) Cooperated with emergency medical assistance personnel and peace**
7 **officers at the scene.**

8 **B. A person who meets the criteria of Subsection A of this Section is**
9 **immune from criminal prosecution for an offense if the offense involved a state**
10 **of intoxication caused by the person's use of alcohol or if the offense involved**
11 **the person being, or becoming, intoxicated as a result of the person's use of**
12 **alcohol.**

13 **C. A person shall not initiate or maintain an action against a peace**
14 **officer or the employing state agency or political subdivision based on the**
15 **officer's compliance or failure to comply with this Section.**

16 **D. For the purposes of this Section, "peace officer" shall have the same**
17 **meaning as defined in R.S. 14:112.1.**

18 **§403.10. Drug-related overdoses; medical assistance; immunity from**
19 **prosecution**

20 **A. A person acting in good faith who seeks medical assistance for an**
21 **individual experiencing a drug-related overdose may not be charged,**
22 **prosecuted, or penalized for possession of a controlled dangerous substance**
23 **under the Uniform Controlled Dangerous Substances Law if the evidence for**
24 **possession of a controlled dangerous substance was obtained as a result of the**
25 **person's seeking medical assistance unless the person illegally provided a**
26 **controlled dangerous substance to the individual.**

27 **B. A person who experiences a drug-related overdose and is in need of**
28 **medical assistance shall not be charged, prosecuted, or penalized for possession**
29 **of a controlled dangerous substance under the Uniform Controlled Dangerous**

1 Substances Law if the evidence for possession of a controlled substance was
2 obtained as a result of the overdose and the need for medical assistance.

3 C. Protection in this Section from prosecution for possession offenses
4 under the Uniform Controlled Dangerous Substances Law may not be grounds
5 for suppression of evidence in other criminal prosecutions.

6 §403.11. Administration of opiate antagonists; immunity

7 A. First responders shall have the authority to administer, without
8 prescription, opiate antagonists when encountering an individual exhibiting
9 signs of an opiate overdose.

10 B. For the purposes of this Section, a first responder shall include all of
11 the following:

12 (1) A law enforcement official.

13 (2) An emergency medical technician.

14 (3) A firefighter.

15 (4) Medical personnel at secondary schools and institutions of higher
16 education.

17 C. Any first responder administering an opiate antagonist in a manner
18 consistent with addressing opiate overdose shall not be liable for any civil
19 damages as a result of any act or omission in rendering such care or services or
20 as a result of any act or failure to act to provide or arrange for further medical
21 treatment or care for the person involved in said emergency, unless the damage
22 or injury was caused by willful or wanton misconduct or gross negligence.

The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the legislative instrument, was prepared by Mary Dozier O'Brien.

DIGEST

Broome (SB 422)

Proposed law provides that a peace officer shall not take a person into custody based solely on the commission of an offense involving alcohol described in proposed law if the peace officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that all of the following apply:

- (1) The law enforcement officer has contact with the person because the person

requested emergency medical assistance for an individual who reasonably appeared to be in need of medical assistance due to alcohol consumption and the person did not illegally provide alcohol to the individual.

- (2) The person:
- (a) Provided the person's full name and any other relevant information requested by the peace officer.
 - (b) Remained at the scene with the individual who reasonably appeared to be in need of medical assistance due to alcohol consumption until emergency medical assistance arrived.
 - (c) Cooperated with emergency medical assistance personnel and peace officers at the scene.

Provides that a person who meets the criteria above is immune from criminal prosecution for an offense if the offense involved a state of intoxication caused by the person's use of alcohol or if the offense involved the person being, or becoming, intoxicated as a result of the person's use of alcohol.

Provides that a person shall not initiate or maintain an action against a peace officer or the employing state agency or political subdivision based on the officer's compliance or failure to comply with proposed law.

Provides that peace officer includes commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, military police, fire marshal investigators, probation and parole officers, attorney general investigators, and district attorney investigators.

Proposed law provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law if the evidence for possession of a controlled dangerous substance was obtained as a result of the person's seeking medical assistance.

Proposed law further provides that the person calling the emergency number for a person who has illegally consumed alcohol or a controlled dangerous substance is immune from criminal charges relating to the condition of the person who made the call only if the person making the call is not the person who illegally provided the alcohol or the controlled dangerous substance to the person in exigent circumstances.

Provides that a person who experiences a drug-related overdose and is in need of medical assistance shall not be charged, prosecuted, or penalized for possession of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law if the evidence for possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

Provides that protection from prosecution for possession offenses under the Uniform Controlled Dangerous Substances Law may not be grounds for suppression of evidence in other criminal prosecutions.

Proposed law provides that first responders may administer, without prescription, opiate antagonists when encountering an individual exhibiting signs of an opiate overdose. Provides that a first responder includes a law enforcement official, an emergency medical technician, a firefighter, and medical personnel at secondary schools and institutions of higher education.

Provides that any first responder administering an opiate antagonist in a manner consistent with addressing opiate overdose shall not be liable for any civil damages as a result of any act or omission in rendering such care or services or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the person involved in said emergency, unless the damage or injury was caused by willful or wanton misconduct or gross negligence.

Effective August 1, 2014.

(Adds R.S. 14:403.9, 403.10, and 403.11)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to reengrossed bill

1. Clarifies that the person reporting to the emergency phone number is absolved of criminal responsibility as to his own level of intoxication only if the person did not illegally provide alcohol to the individual for whom assistance is being sought.
2. Clarifies that the person reporting to the emergency phone number is absolved of criminal responsibility as to his own level of intoxication only if the person did not illegally provide a controlled dangerous substance to the individual for whom assistance is being sought.
3. Removed discretion from peace officer's decision to take person into custody and changes may to shall.
4. Removed discretion about person bringing action against peace officers and changes may to shall.
5. Person who is in need of medical attention shall not be penalized if evidence of possession of controlled dangerous substance came from response to an emergency call.