
SENATE BILL 6432

State of Washington

62nd Legislature

2012 Regular Session

By Senator Stevens

Read first time 01/23/12. Referred to Committee on Transportation.

1 AN ACT Relating to intrusive searches at transportation facilities;
2 adding a new section to chapter 47.68 RCW; adding a new section to
3 chapter 42.20 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.68 RCW
6 to read as follows:

7 Any law enforcement officer who is stationed or present at an
8 airport, bus station, train station, highway, or other transportation-
9 related location or is in the presence of or who is working with an
10 agent of the federal transportation security administration or its
11 equivalent while such agent is conducting an administrative search for
12 transportation security of persons about to travel or already traveling
13 in a vehicle of any kind shall record all interactions between the
14 agent and citizen when that citizen complains to the law enforcement
15 officer about the manner in which the administrative search is being or
16 has been conducted.

17 When a law enforcement officer is not available at the site of an
18 administrative search conducted for transportation security, a citizen

1 may file a complaint at any office of the county sheriff within the
2 state of Washington, and the officer taking the report shall follow the
3 same procedures as would be required had he or she been at the scene.

4 In such cases, the law enforcement officer shall record the name
5 and address of the citizen as well as the name and address or official
6 identification of the agent, along with an accurate statement of the
7 details involving the complaint and his or her observations of the
8 federal agent's behavior when applicable.

9 Such records shall be submitted within five business days to the
10 division of state patrol for inclusion on an electronic database
11 specifically identified as citizen complaints about TSA searches. The
12 division of state patrol shall maintain the reports on the electronic
13 database for at least five years, after which the records may be
14 archived but not destroyed.

15 The information recorded pursuant to this section, with the name
16 and other identifying information of the complainant redacted, shall be
17 a public record under RCW 40.14.010.

18 The state patrol and its employees and agents shall not be held
19 liable for errors of omission or commission in the recording and
20 maintenance of information under this section unless the error is shown
21 to be the result of gross negligence or an intentional act.

22 In order to assist in the accuracy of records created by law
23 enforcement officers, all citizens being searched shall be afforded
24 their rights under the first amendment of the United States
25 Constitution and under the Washington state Constitution to record, or
26 designate a person to record, using any type of audio and video
27 recording device, or a device that records just audio or just video,
28 all interactions with an agent described in this section, even in the
29 presence of a law enforcement officer, without exception. If a citizen
30 is prevented in any way from exercising his or her rights as specified
31 in this section, he or she may require a law enforcement officer to
32 enforce the provisions of this section.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.20 RCW
34 to read as follows:

35 A person who is a public official acting under color of his or her
36 office or employment commits a felony offense if the person while

1 acting under color of the person's office or employment without
2 reasonable suspicion of the presence of an unknown, unlawful, or
3 prohibited object:

4 (1) Performs a search without effective consent for the purpose of
5 granting access to a publicly accessible building or form of
6 transportation; and

7 (2) Intentionally, knowingly, or recklessly:

8 (a) Touches the anus, sexual organ, buttocks, or breast of the
9 other person, including touching through clothing;

10 (b) Causes physical contact with the other person when the person
11 knows or should reasonably believe the other person will regard the
12 contact as offensive or provocative.

13 (3) For purposes of this section:

14 (a) A person who is a public official acts under color of the
15 person's office or employment if the person acts or purports to act in
16 an official capacity or takes advantage of such actual or purported
17 capacity.

18 (b) Consent is effective only if, immediately before any search the
19 public official verbally describes:

20 (i) The area of the body on the person to be searched; and

21 (ii) The method to be used in the search; and

22 (c) The public official receives express consent for the search
23 only from the person to be searched, or the parent or guardian of the
24 person.

25 (d) "Public official" means: An officer, employee, or agent of the
26 United States, a branch, department, or agency of the United States or
27 another person acting under contract with a branch, department, or
28 agency of the United States for the purpose of providing a security or
29 law enforcement service; any other person acting under color of federal
30 law.

31 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2013.

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