

House File 2304 - Introduced

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BY PEARSON

A BILL FOR

1 An Act regulating the use of pat-down searches and whole-body
2 scanners, providing penalties, and including effective date
3 and implementation provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 321N.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Governmental subdivision*" means any county or city
5 of this state, or any other political subdivision, public
6 corporation, authority, or district in this state which is or
7 may be authorized by law to acquire, establish, construct,
8 maintain, improve, or operate landing areas, airports, air
9 navigation facilities, or other governmental facilities. For
10 purposes of this subsection, "*landing area*", "*airport*", and "*air*
11 *navigation facility*" mean the same as defined in section 328.1.

12 2. "*Pat-down search*" means a physical search of a person
13 where the outer clothing of the person is patted by the palm
14 or the back of the hand when there is reasonable suspicion the
15 person may possess a prohibited dangerous weapon, destructive
16 device, or material.

17 3. "*Whole-body scanner*" means a device used to detect
18 objects carried on the body that uses backscatter X rays or
19 millimeter waves to create a visual image of a person's full
20 body showing the surface of the skin.

21 Sec. 2. NEW SECTION. 321N.2 Whole-body scanner use.

22 1. A governmental subdivision shall not use a whole-body
23 scanner as the sole or primary method of screening a person
24 at a governmental subdivision facility. A governmental
25 subdivision shall not use a whole-body scanner to screen
26 any person unless another method of screening demonstrates
27 reasonable cause to use a whole-body scanner.

28 2. a. If another method of screening demonstrates
29 reasonable cause to use a whole-body scanner pursuant to
30 subsection 1, the person subject to the whole-body scanner
31 screening shall be provided information about the whole-body
32 scanner including the privacy policies relating to the visual
33 image generated by the scanner.

34 b. After information has been provided to the person
35 subject to a whole-body scanner screening under paragraph "a",

1 the person shall be offered a pat-down search in lieu of a
2 whole-body scanner screening.

3 c. If the person does not agree to a pat-down search
4 pursuant to paragraph "b", the governmental subdivision may
5 require the person to be subject to a whole-body scanner
6 screening.

7 3. This section does not apply to a jail or correctional
8 facility.

9 4. The homeland security and emergency management division
10 of the department of public defense shall, by January 15, 2013,
11 and every year thereafter, submit a report to the general
12 assembly and to the legislative services agency detailing the
13 following: the number of persons in this state subject to
14 whole-body scanner screenings pursuant to this section as a
15 percentage of all screened persons; the percentage of persons
16 subject to whole-body scanner screenings who select a pat-down
17 search in lieu of a whole-body scanner screening; the privacy
18 protections relating to the images generated by the whole-body
19 scanner and the number of privacy breaches relating to such
20 images; the effectiveness of the whole-body scanner screenings;
21 updates on next generation technology relating to the screening
22 of passengers and baggage; and findings relating to the health
23 risks of repeated exposure to whole-body scanner screenings on
24 operators, other workers, persons subject to such screens, and
25 members of the general public that pass nearby.

26 Sec. 3. NEW SECTION. 708.14A Pat-down search —
27 prohibition.

28 1. A person, without probable cause, shall not knowingly
29 or recklessly search another person by touching the clothed
30 or unclothed anus, genitalia, or breast of another in such a
31 manner that would be offensive to a reasonable person as part
32 of a search to grant access to a publicly accessible building
33 or form of transportation.

34 2. A person who violates this section commits a serious
35 misdemeanor.

1 If a person is subject to a whole-body scanner screening,
2 the bill requires the person to be provided information about
3 the operation of the whole-body scanner including the privacy
4 policies related to the visual image generated by the scanner.

5 The bill requires a person subject to a whole-body
6 scanner screening to be offered a pat-down search in lieu
7 of a whole-body scanner screening. If the person does not
8 agree to a pat-down search, the bill allows a governmental
9 subdivision to require the person to undergo a whole-body
10 scanner screening.

11 The bill prohibits a person, without probable cause, from
12 knowingly or recklessly searching another person by touching
13 the clothed or unclothed anus, genitalia, or breast of another
14 in such a manner that would be offensive to a reasonable person
15 as part of a search to grant access to a publicly accessible
16 building or form of transportation. A person who violates this
17 provision of the bill commits a serious misdemeanor.

18 A serious misdemeanor is punishable by confinement for no
19 more than one year and a fine of at least \$315 but not more than
20 \$1,875.

21 The bill requires the homeland security and emergency
22 management division of the department of public defense to
23 submit a report by January 15, 2013, and every year thereafter,
24 detailing the number of persons subject to whole-body
25 screenings, the number of persons selecting a pat-down search
26 in lieu of whole-body scanner screenings, the privacy breaches
27 related to the images generated by whole-body scanners, the
28 overall effectiveness of whole-body scanners, and the health
29 risks associated with repeated exposures to such screenings.

30 The bill also requires the administrator of the homeland
31 security and emergency management division of the department
32 of public defense to study the effects of repeated exposure
33 to whole-body scanner screenings on the health and safety of
34 operators, other workers, persons subject to such screenings,
35 and members of the general public who pass near the scanner.

1 Under the bill, if the administrator determines that repeated
2 exposures to whole-body scanner screenings is not harmful,
3 the bill permits a whole-body scanner to be used in this
4 state within 30 days of such a finding. If, however, the
5 administrator determines that repeated exposures may be
6 harmful, the use of a whole-body scanner shall be delayed until
7 such time the administrator determines, after further study,
8 that repeated exposures are not harmful. The bill delays the
9 use of whole-body scanners pursuant to the bill until such
10 determination is made.

11 The bill does not apply to a jail or correctional facility.

12 The bill takes effect upon enactment.