

and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedure to insure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for.

Sec. 2. Section 13, chapter 188, Laws of 1953 as last amended by section 10, chapter 16, Laws of 1983 1st ex. sess. and RCW 68.08.107 are each amended to read as follows:

There shall be established at the University of Washington Medical School a state toxicological laboratory under the direction of the state toxicologist whose duty it will be to perform all necessary toxicologic procedures requested by all coroners, medical examiners, and prosecuting attorneys. Annually the president of the University of Washington, with the consent of the state death investigations council, shall appoint a competent toxicologist as state toxicologist who shall serve a one year term. The state toxicologist may be reappointed to as many additional one year terms as the president of the university and the death investigations council deem proper. The facilities of the police school of the Washington State University and the services of its professional staff shall be made available to coroners, medical examiners, and prosecuting attorneys in their investigations under this chapter. ~~((This laboratory shall be deemed to be within the meaning of medical and biological research as defined in RCW 66.08.180, and one hundred fifty thousand dollars per biennium shall be provided for partial funding of salaries and operations of the laboratory. The funds so provided shall take priority over disbursements of any other sums from the medical and biological research fund:))~~ This laboratory shall be funded by disbursement from the class H license fees as provided in RCW 66.08.180.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1987.

Passed the Senate February 11, 1986.

Passed the House March 5, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 88

[Engrossed Substitute House Bill No. 1148]

STRIP SEARCHES AND BODY CAVITY SEARCHES

AN ACT Relating to strip searches and body cavity searches; amending RCW 10.79.110; and adding new sections to chapter 10.79 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Sections 2 through 5 of this act apply to any person in custody at a holding, detention, or local correctional facility, other

than a person committed to incarceration by order of a court, regardless of whether an arrest warrant or other court order was issued before the person was arrested or otherwise taken into custody unless the court issuing the warrant has determined that the person shall not be released on personal recognizance, bail, or bond. Sections 2 through 5 of this act do not apply to a person held for post-conviction incarceration for a criminal offense. The definitions and remedies provided by RCW 10.79.070 and 10.79.110 apply to sections 2 through 5 of this act.

NEW SECTION. Sec. 2. (1) No person to whom this section is made applicable by section 1 of this act may be strip searched without a warrant unless:

(a) There is a reasonable suspicion to believe that a strip search is necessary to discover weapons, criminal evidence, contraband, or other thing concealed on the body of the person to be searched, that constitutes a threat to the security of a holding, detention, or local correctional facility;

(b) There is probable cause to believe that a strip search is necessary to discover other criminal evidence concealed on the body of the person to be searched, but not constituting a threat to facility security; or

(c) There is a reasonable suspicion to believe that a strip search is necessary to discover a health condition requiring immediate medical attention.

(2) For the purposes of subsection (1) of this section, a reasonable suspicion is deemed to be present when the person to be searched has been arrested for:

(a) A violent offense as defined in RCW 9.94A.030 or any successor statute;

(b) An offense involving escape, burglary, or the use of a deadly weapon; or

(c) An offense involving possession of a drug or controlled substance under chapter 69.41, 69.50, or 69.52 RCW or any successor statute.

NEW SECTION. Sec. 3. (1) A person to whom this section is made applicable by section 1 of this act who has not been arrested for an offense within one of the categories specified in section 2(2) of this act may nevertheless be strip searched, but only upon an individualized determination of reasonable suspicion or probable cause as provided in this section.

(2) With the exception of those situations in which reasonable suspicion is deemed to be present under section 2(2) of this act, no strip search may be conducted without the specific prior written approval of the jail unit supervisor on duty. Before any strip search is conducted, reasonable efforts must be made to use other less-intrusive means, such as pat-down, electronic metal detector, or clothing searches, to determine whether a weapon, criminal evidence, contraband, or other thing is concealed on the body, or whether a health condition requiring immediate medical attention is present. The determination of whether reasonable suspicion or probable

cause exists to conduct a strip search shall be made only after such less-intrusive means have been used and shall be based on a consideration of all information and circumstances known to the officer authorizing the strip search, including but not limited to the following factors:

- (a) The nature of the offense for which the person to be searched was arrested;
- (b) The prior criminal record of the person to be searched; and
- (c) Physically violent behavior of the person to be searched, during or after the arrest.

NEW SECTION. Sec. 4. (1) A written record of any strip search shall be maintained in the individual file of each person strip searched.

(2) With respect to any strip search conducted under section 3 of this act, the record shall contain the following information:

- (a) The name of the supervisor authorizing the strip search;
- (b) The specific facts constituting reasonable suspicion to believe that the strip search was necessary;
- (c) The name and serial number of the officer conducting the strip search and of all other persons present or observing during any part of the strip search;
- (d) The time, date, and place of the strip search; and
- (e) Any weapons, criminal evidence, contraband, or other thing, or health condition discovered as a result of the strip search.

(3) With respect to any strip search conducted under section 2(2) of this act, the record shall contain, in addition to the offense or offenses for which the person searched was arrested, the information required by subsection (2) (c), (d), and (e) of this section.

(4) The record may be included or incorporated in existing forms used by the facility, including the booking form required under the Washington Administrative Code. A notation of the name of the person strip searched shall also be entered in the log of daily activities or other chronological record, if any, maintained pursuant to the Washington Administrative Code.

(5) Except at the request of the person to be searched, no person may be present or observe during the strip search unless necessary to conduct the search.

NEW SECTION. Sec. 5. Physical examinations conducted by licensed medical professionals solely for public health purposes under separate statutory authority shall not be considered searches for purposes of sections 2, 3, and 4 of this act.

NEW SECTION. Sec. 6. No governmental entity and no employee or contracting agent of a governmental entity shall be liable for injury, death, or damage caused by a person in custody when the injury, death, or damage

is caused by or made possible by contraband that would have been discovered sooner but for the delay caused by having to seek a search warrant under RCW 10.79.080 or sections 2 through 5 of this act.

Sec. 7. Section 6, chapter 42, Laws of 1983 1st ex. sess. and RCW 10.79.110 are each amended to read as follows:

(1) A person who suffers damage or harm as a result of a violation of RCW 10.79.080, 10.79.090, ~~((or))~~ 10.79.100, or sections 2 through 6 of this 1986 act may bring a civil action to recover actual damages sustained by him or her. The court may, in its discretion, award injunctive and declaratory relief as it deems necessary.

(2) RCW 10.79.080, 10.79.090, ~~((and))~~ 10.79.100, and sections 2 through 6 of this 1986 act shall not be construed as limiting any constitutional, common law, or statutory right of any person regarding any action for damages or injunctive relief, or as precluding the prosecution under another provision of law of any law enforcement officer or other person who has violated RCW 10.79.080, 10.79.090, ~~((or))~~ 10.79.100, or sections 2 through 6 of this 1986 act.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act are added to chapter 10.79 RCW.

Passed the House February 13, 1986.

Passed the Senate March 7, 1986.

Approved by the Governor March 19, 1986.

Filed in Office of Secretary of State March 19, 1986.

CHAPTER 89

[Substitute House Bill No. 1363]

COVERED LOADS—DEBRIS—MOTOR VEHICLES

AN ACT Relating to motor vehicles; and amending RCW 46.61.655.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 46.56.135, chapter 12, Laws of 1961 as last amended by section 22, chapter 307, Laws of 1971 ex. sess. and RCW 46.61.655 are each amended to read as follows:

(1) No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction(~~((or water or other substance may be sprinkled on a roadway in the cleaning or maintaining of such roadway by public authority having jurisdiction))~~). Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger